



Education Committee

Wednesday, April 20, 2011

10:00 AM – 1:00 PM

Reed Hall – 102 HOB

Meeting Packet

**Dean Cannon
Speaker**

**William Proctor
Chair**



The Florida House of Representatives

Education Committee

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Speaker

William L. "Bill" Proctor
Chair

AGENDA

Education Committee
April 20, 2011
10:00 am – 1:00 pm
Reed Hall - 102 HOB

- I. Call to Order/Roll Call
- II. Opening Remarks
- III. Consideration of the following bills:
 - CS/HB 481 Student Safety
by K-20 Competitiveness Subcommittee, Kiar
 - CS/HJR 1359 Board of Governors/Student Body President
by K-20 Innovation Subcommittee, Williams, A.
 - CS/HB 7195 School Choice
by Appropriations Committee, K-20 Innovation Subcommittee, Stargel
 - CS/HB 7197 Digital Learning
by Appropriations Committee, K-20 Innovation Subcommittee, Stargel
- IV. Consideration of the following proposed committee substitute:
 - PCS for CS/HB 831 -- High School Athletic Trainers
- V. Closing Remarks and Adjournment

1 A bill to be entitled
 2 An act relating to student safety; amending s. 1006.07,
 3 F.S.; requiring district school board policies to list the
 4 emergency response agencies that are responsible for
 5 notifying the school district of emergencies; amending s.
 6 1002.42, F.S.; requiring the emergency response agencies
 7 to notify private schools in the school district under
 8 certain circumstances; providing an effective date.

9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Subsection (4) of section 1006.07, Florida
 13 Statutes, is amended to read:

14 1006.07 District school board duties relating to student
 15 discipline and school safety.—The district school board shall
 16 provide for the proper accounting for all students, for the
 17 attendance and control of students at school, and for proper
 18 attention to health, safety, and other matters relating to the
 19 welfare of students, including:

20 (4) EMERGENCY DRILLS; EMERGENCY PROCEDURES.—

21 (a) Formulate and prescribe policies and procedures for
 22 emergency drills and for actual emergencies, including, but not
 23 limited to, fires, natural disasters, and bomb threats, for all
 24 the public schools of the district which comprise grades K-12.
 25 District school board policies shall include commonly used alarm
 26 system responses for specific types of emergencies and
 27 verification by each school that drills have been provided as
 28 required by law and fire protection codes. The emergency

29 response agency that is responsible for notifying the school
 30 district for each type of emergency must be listed in the
 31 district's emergency response policy.

32 (b) ~~The district school board shall~~ Establish model
 33 emergency management and emergency preparedness procedures,
 34 including emergency notification procedures pursuant to
 35 paragraph (a), for the following life-threatening emergencies:

- 36 1. Weapon-use and hostage situations.
- 37 2. Hazardous materials or toxic chemical spills.
- 38 3. Weather emergencies, including hurricanes, tornadoes,
 39 and severe storms.
- 40 4. Exposure as a result of a manmade emergency.

41 Section 2. Subsection (16) is added to section 1002.42,
 42 Florida Statutes, to read:

43 1002.42 Private schools.—

44 (16) EMERGENCY PROCEDURES.—The emergency response agencies
 45 identified in a district school board's emergency response
 46 policy pursuant to s. 1006.07(4) that are responsible for
 47 notifying the school district of an occurrence that threatens
 48 student safety shall also notify private schools in the district
 49 that request such notification by opting into the district
 50 school board's emergency notification procedures.

51 Section 3. This act shall take effect July 1, 2011.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 481 Student Safety
SPONSOR(S): K-20 Competitiveness Subcommittee; Kiar and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 588

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-20 Competitiveness Subcommittee	12 Y, 0 N, As CS	Beagle	Ahearn
2) Community & Military Affairs Subcommittee	12 Y, 0 N	Duncan	Hoagland
3) Education Committee		Beagle GB	Klebacha JK

SUMMARY ANALYSIS

The bill requires each district school board to list in its emergency response policy the agency responsible for notifying the school district regarding each type of emergency. District model emergency management and preparedness procedures for weather emergencies and other situations must also list the agencies with notification responsibilities. The bill requires the emergency response agency identified in a district school board's emergency policies and procedures to notify private schools in the district of occurrences that threaten student safety if the private school requests such notification by opting into the district school board's notification procedures.

Florida law requires each district school board to establish emergency response policies and model emergency management and preparedness procedures. Emergency response policies must include procedures for responding to fires, natural disasters, and bomb threats. Model emergency management and preparedness procedures must address life-threatening emergencies, such as weapon-use and hostage situations; hazardous materials or toxic chemical spills; weather emergencies; and exposure resulting from manmade emergencies. Florida law does not expressly require that district school board emergency response policies and procedures list the agency responsible for notifying the school district regarding each type of emergency.

Private school emergency policies are not regulated by the state. Private schools typically make arrangements to receive notification of emergencies from the appropriate emergency response agency. Florida law does not expressly authorize private schools to opt into school district emergency notification procedures for the purpose of receiving emergency notifications.

The bill does not have fiscal impact on state or local governments.

The bill takes effect July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida law requires each district school board to establish emergency response policies and model emergency management and preparedness procedures. Emergency response policies must include procedures for responding to fires, natural disasters, and bomb threats. Commonly used alarm system responses for specific types of emergencies must be incorporated into such policies.¹ Additionally, district school boards must establish model emergency management and preparedness procedures for weapon-use and hostage situations; hazardous materials or toxic chemical spills; weather emergencies, including hurricanes, tornadoes, and severe storms; and exposure resulting from manmade emergencies.²

Florida law does not expressly require that school district emergency response policies and model emergency management and preparedness procedures list the agency responsible for notifying the school district regarding emergencies. However, cooperation with emergency response agencies is incorporated into the *Safety and Security Best Practices*, a self-assessment tool that each school district must use to annually assess the effectiveness of district emergency response policies. Among other "best practices," the self-assessment suggests that school districts:

- Make arrangements to work with local emergency officials, including, without limitation, law enforcement; fire department; emergency management; hospital, mental health, health, and social services agencies; and court officials.
- Share comprehensive school safety plans and emergency procedures with appropriate emergency response agencies.
- Implement procedures for contacting all district schools simultaneously regarding an emergency.³

Private school emergency policies are not regulated by the state.⁴ Private schools typically make arrangements to receive notification of emergencies from the appropriate emergency response agency. Despite such arrangements, private schools do not always receive notification.⁵ Florida law does not expressly authorize private schools to opt into district school board emergency notification procedures for the purpose of receiving notification of emergencies from an emergency response agency.⁶

Effect of Proposed Changes

The bill requires each district school board to list in its emergency response policy the agency responsible for notifying the school district regarding each type of emergency. District model emergency management and preparedness procedures for weather emergencies and other situations must also list the agencies with notification responsibilities. The bill requires the emergency response agency identified in a district school board's emergency policies and procedures to notify private

¹ Section 1006.07(4)(a), F.S.

² Section 1006.07(4)(b), F.S.

³ Section 1006.07(6), F.S.; Florida Department of Education, *District Safety and Security Best Practices*, <http://www.fldoe.org/EM/security-practices.asp> (last visited March 10, 2011). The Best Practices are developed by the Office of Program Policy Analysis and Government Accountability. *Id.* Each district school superintendent must make recommendations to the school board for improving emergency response policies based upon the self-assessment results. The self-assessment results and superintendent's recommendations must be addressed in a publicly noticed school board meeting. The results of the self-assessment and any school board action on the superintendent's recommendations must be reported to the commissioner within 30 days after the school board meeting. Section 1006.07(6), F.S.

⁴ Telephone interview with Bureau Chief, Emergency Management, Florida Department of Education (March 17, 2011).

⁵ Telephone interview with Executive Director, Florida Council of Independent Schools (March 11, 2011).

⁶ See s. 1002.42, F.S.

schools in the district of occurrences that threaten student safety if the private school requests such notification by opting into the district school board's notification procedures. This will enable a private school to receive emergency notifications on the same basis as district public schools.

B. SECTION DIRECTORY:

Section 1. Amending s. 1006.07, F.S., relating to district school board duties regarding student discipline and school safety; requiring school boards to identify in emergency policies and procedures the agency responsible for notifying the school district regarding emergencies.

Section 2. Amending s. 1002.42, F.S., relating to private schools; requiring an emergency response agency to notify private schools of emergencies that threaten student safety; authorizing private schools to request such notification by opting into school board notification procedures.

Section 3. Providing an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 23, 2011, the K-20 Competitiveness Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The original bill could be construed to require a district school board to select an emergency response agency to be responsible for notifying the school district regarding emergencies. The amendment clarifies that each district school board is simply required to list in its emergency policies and procedures each agency that notifies the school district for each type of emergency.

1 House Joint Resolution

2 A joint resolution proposing an amendment to Section 7 of
 3 Article IX of the State Constitution to require the
 4 Governor to appoint a state university student body
 5 president to the Board of Governors of the State
 6 University System.

7
 8 Be It Resolved by the Legislature of the State of Florida:

9
 10 That the following amendment to Section 7 of Article IX of
 11 the State Constitution is agreed to and shall be submitted to
 12 the electors of this state for approval or rejection at the next
 13 general election or at an earlier special election specifically
 14 authorized by law for that purpose:

15 ARTICLE IX

16 SECTION 7. State University System.—

17 (a) PURPOSES. In order to achieve excellence through
 18 teaching students, advancing research and providing public
 19 service for the benefit of Florida's citizens, their communities
 20 and economies, the people hereby establish a system of
 21 governance for the state university system of Florida.

22 (b) STATE UNIVERSITY SYSTEM. There shall be a single
 23 state university system comprised of all public universities. A
 24 board of trustees shall administer each public university and a
 25 board of governors shall govern the state university system.

26 (c) LOCAL BOARDS OF TRUSTEES. Each local constituent
 27 university shall be administered by a board of trustees
 28 consisting of thirteen members dedicated to the purposes of the

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29 | state university system. The board of governors shall establish
 30 | the powers and duties of the boards of trustees. Each board of
 31 | trustees shall consist of six citizen members appointed by the
 32 | governor and five citizen members appointed by the board of
 33 | governors. The appointed members shall be confirmed by the
 34 | senate and serve staggered terms of five years as provided by
 35 | law. The chair of the faculty senate, or the equivalent, and the
 36 | president of the student body of the university shall also be
 37 | members.

38 | (d) STATEWIDE BOARD OF GOVERNORS. The board of governors
 39 | shall be a body corporate consisting of seventeen members. The
 40 | board shall operate, regulate, control, and be fully responsible
 41 | for the management of the whole university system. These
 42 | responsibilities shall include, but not be limited to, defining
 43 | the distinctive mission of each constituent university and its
 44 | articulation with free public schools and community colleges,
 45 | ensuring the well-planned coordination and operation of the
 46 | system, and avoiding wasteful duplication of facilities or
 47 | programs. The board's management shall be subject to the powers
 48 | of the legislature to appropriate for the expenditure of funds,
 49 | and the board shall account for such expenditures as provided by
 50 | law. The governor shall appoint to the board fifteen ~~fourteen~~
 51 | citizens dedicated to the purposes of the state university
 52 | system, one of whom shall be a state university student body
 53 | president. The appointed members shall be confirmed by the
 54 | senate and serve staggered terms of seven years as provided by
 55 | law, except that a state university student body president
 56 | appointed to the board shall serve a term of one year and shall

57 | not be subject to senate confirmation. The commissioner of
 58 | education and, the chair of the advisory council of faculty
 59 | senates, or the equivalent, ~~and the president of the Florida~~
 60 | ~~student association, or the equivalent,~~ shall also be members of
 61 | the board.

62 | BE IT FURTHER RESOLVED that the following statement be
 63 | placed on the ballot:

64 | CONSTITUTIONAL AMENDMENT

65 | ARTICLE IX, SECTION 7

66 | APPOINTMENT OF STUDENT BODY PRESIDENT TO BOARD OF GOVERNORS
 67 | OF THE STATE UNIVERSITY SYSTEM.—Proposing an amendment to the
 68 | State Constitution to require that the Governor appoint the
 69 | student body president of a state university to the Board of
 70 | Governors for a term of 1 year. Specifically, the amendment
 71 | requires that one of the fifteen citizen members appointed by
 72 | the Governor be a state university student body president who is
 73 | not subject to confirmation by the Senate. The amendment removes
 74 | the president of the Florida Student Association, or the
 75 | equivalent, as a member of the Board of Governors.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HJR 1359 Board of Governors/Student Body President

SPONSOR(S): K-20 Innovation Subcommittee; Williams, A.

TIED BILLS: IDEN./SIM. **BILLS:** SJR 1706

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-20 Innovation Subcommittee	14 Y, 0 N, As CS	Beagle	Sherry
2) Education Committee		Beagle <i>GB</i>	Klebacha <i>CK</i>

SUMMARY ANALYSIS

The joint resolution proposes to amend the Florida Constitution to revise the membership of the Board of Governors (BOG) of the State University System (SUS), as follows:

- The Florida Student Association (FSA) president is removed as a BOG member;
- The number of members appointed by the Governor is increased from 14 to 15; and
- One of the 15 members appointed by the Governor must be a state university student body president.

The state university student body president will serve a one-year term and is not subject to confirmation by the Florida Senate. The joint resolution, if adopted by three-fifths vote of the membership of each house of the Legislature, would place the proposed amendment on the ballot of the next general election or an earlier special election if specifically authorized for that purpose. The proposed amendment must be approved by 60 percent of the voters in order to take effect.

As set forth in the Florida Constitution, state-level governance of the SUS is provided by the BOG and Legislature. The BOG is comprised of 17 members – the Commissioner of Education, the chair of the Advisory Council of Faculty Senates, the FSA president, and 14 members appointed by the Governor. Members appointed by the Governor must be confirmed by the Florida Senate.

See Fiscal Impact Statement.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The Board of Governors of the State University System

As set forth in the Florida Constitution, state-level governance of the state university system (SUS) is provided by the Board of Governors (BOG) and Legislature.¹ The BOG's responsibilities include, but are not limited to, defining the distinctive mission of each SUS institution and its articulation with public schools and Florida College System institutions, ensuring the well-planned coordination and operation of the system, and avoiding wasteful duplication of facilities or programs.² Among other things, the BOG is responsible for:

- Accounting for the expenditure of state funds.
- Submitting a legislative budget request for each SUS institution.
- Adopting strategic plans.
- Approving, reviewing, and terminating degree programs.
- Governing admissions to SUS institutions.
- Complying with and enforcing all applicable local, state, and federal laws.³

The BOG's oversight of the SUS is subject to the Legislature's power to appropriate funds and establish tuition, fee, and financial aid policies, as well as the Legislature's responsibility to provide for the establishment, maintenance, and operation of institutions of higher learning and other public education programs that the needs of the people may require.⁴

The BOG may establish policies through rulemaking or the adoption of regulations. When acting pursuant to statutory authority derived from the Legislature, the BOG must adopt rules under the Administrative Procedure Act,⁵ unless expressly authorized by law to adopt regulations. The BOG may also adopt regulations when implementing its constitutional duties and responsibilities.⁶

The BOG is comprised of 17 members – the Commissioner of Education, the chair of the Advisory Council of Faculty Senates, the Florida Student Association (FSA) president, and 14 members appointed by the Governor. Members appointed by the Governor serve staggered seven-year terms and must be confirmed by the Florida Senate.⁷

FSA is comprised of the student body presidents of Florida A & M University, Florida Atlantic University, Florida Gulf Coast University, Florida International University, New College of Florida, University of Central Florida, University of Florida, University of North Florida, University of South Florida, and University of West Florida. Florida State University is not represented by FSA.⁸ Participating institutions pay membership dues, which are based upon Fall semester student enrollment.⁹

¹ Section (7)(d), Art. IX of the State Constitution; s. 1001.705(2), F.S.

² Section (7)(d), Art. IX of the State Constitution; ss. 1001.705(3) and 1001.706, F.S.

³ Section 1001.705(2), F.S.

⁴ Sections 1(a) and 7(d), Art. IX of the State Constitution; s. 1001.705(3), F.S.

⁵ Chapter 120, F.S.

⁶ Section 1001.706(2), F.S. If the BOG adopts regulations, it must comply with its regulation development procedure, rather than Administrative Procedure Act rulemaking requirements. *Id.*

⁷ Section (7)(d), Art. IX of the State Constitution; s. 1001.70(1), F.S.

⁸ Florida Student Association, <http://myfsa.org/> (last visited March 29, 2011).

⁹ Florida Student Association, *Constitution and Bylaws of the Florida Student Association*, at 2 (Jan. 1, 2011), available at http://myfsa.org/includes/files/FSA_Bylaws_January_1_2011.pdf.

Effect of Proposed Changes

The joint resolution proposes to amend the Florida Constitution to revise the membership of the BOG of the SUS, as follows:

- The FSA president is removed as a BOG member;
- The number of members appointed by the Governor is increased from 14 to 15; and
- One of the 15 members appointed by the Governor must be a state university student body president.

The state university student body president will serve a one-year term and is not subject to confirmation by the Florida Senate. The joint resolution, if adopted by three-fifths vote of the membership of each house of the Legislature, would place the proposed amendment on the ballot of the next general election or an earlier special election if specifically authorized for that purpose.¹⁰ The proposed amendment must be approved by 60 percent of the voters in order to take effect.¹¹

B. SECTION DIRECTORY:

As this legislation is a joint resolution proposing a constitutional amendment, it does not contain bill sections. The joint resolution proposes to amend Section 7 of Article IX of the Florida Constitution, relating to the state university system.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Florida Constitution requires the proposed amendment to be published, once in the tenth week and once in the sixth week immediately preceding the week of the election, in one newspaper of general circulation in each county where a newspaper is published.¹² The Department of State executes this requirement and has projected a non-recurring fiscal impact of \$50,522.64 for the publication.¹³

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

¹⁰ Section 1 an 5, Art. XI of the State Constitution

¹¹ Section 5(a) and (e), Art. XI of the State Constitution.

¹² Section 5(d), Art. XI of the State Constitution

¹³ Email, Florida Department of State, Division of Elections (Mar. 22, 2011).

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 28, 2011, the K-20 Innovation Subcommittee adopted one amendment and reported the joint resolution favorably as a committee substitute. The amendment:

- Increases the number of BOG members appointed by the Governor from 14 to 15. The original joint resolution removed the FSA president as a BOG member, but did not provide a replacement to maintain the BOG's total membership at 17 members.
- Provides that the state university student body president appointed by the Governor will serve a one-year term and is not subject to confirmation by the Florida Senate. The original joint resolution would have this BOG member serve a seven-year term, subject to Senate confirmation.

Because publication costs are determined on a per word basis, the amendment may result in a slight increase in publication costs.

1 A bill to be entitled
 2 An act relating to school choice; creating s. 1002.331,
 3 F.S.; establishing criteria for high-performing charter
 4 schools; authorizing a high-performing charter school to
 5 increase enrollment, expand grade levels served,
 6 consolidate the charters of certain charter schools,
 7 receive a 15-year charter renewal, and report financial
 8 statements on a quarterly basis; authorizing a high-
 9 performing charter school to apply to establish a charter
 10 school that replicates its educational program; providing
 11 application requirements; limiting the number of charter
 12 schools that may be established; requiring eligibility
 13 verification by the Commissioner of Education; creating s.
 14 1002.332, F.S.; providing definitions; establishing
 15 criteria for high-performing charter school systems;
 16 providing for eligibility verification by the Commissioner
 17 of Education; authorizing a high-performing charter school
 18 system to apply to establish a charter school that
 19 replicates the educational program of one or more of its
 20 existing high-performing charter schools; providing
 21 application requirements; limiting the number of charter
 22 schools that may be established; amending s. 1002.33,
 23 F.S.; authorizing a charter school operated by a Florida
 24 College System institution to serve students in
 25 kindergarten through grade 12 if certain criteria are met;
 26 requiring a charter school sponsor to allow a charter
 27 school applicant to correct technical deficiencies in its
 28 application before approval or denial; establishing

29 standards for sponsor review of a charter school
 30 application submitted by a high-performing charter school
 31 or high-performing charter school system; authorizing
 32 direct appeal to the State Board of Education of a denial
 33 of an application; establishing standards for reviewing
 34 such an appeal; revising applicant training requirements;
 35 requiring inclusion in the charter of procedures relating
 36 to high-performing charter schools; authorizing a sponsor
 37 to require certain governing board members to reside in
 38 the school district; revising the procedure for nonrenewal
 39 or termination of a charter; authorizing a charter
 40 school's governing board to request a hearing regarding
 41 charter nonrenewal or termination, including immediate
 42 termination; authorizing the sponsor to choose to provide
 43 a direct hearing or a hearing before an administrative law
 44 judge; authorizing the award of costs and attorney's fees
 45 to a charter school governing board if certain criteria
 46 are met; authorizing quarterly financial reporting for
 47 certain charter schools; establishing additional student
 48 enrollment preferences; correcting a cross-reference
 49 relating to the disclosure of financial interests;
 50 providing requirements for the shared use of charter
 51 school facilities; authorizing certain charter school
 52 systems to be the local education agency for administering
 53 federal funding received by the system's schools;
 54 requiring the Department of Education to examine certain
 55 charter school funding and costs and report its findings

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56 to the Governor and the Legislature; providing an
 57 effective date.

58

59 Be It Enacted by the Legislature of the State of Florida:

60

61 Section 1. Section 1002.331, Florida Statutes, is created
 62 to read:

63 1002.331 High-performing charter schools.-

64 (1) A charter school is a high-performing charter school
 65 if it:

66 (a) Received at least two school grades of "A" and no
 67 school grade below "B," pursuant to s. 1008.34, during each of
 68 the previous 3 school years.

69 (b) Received an unqualified opinion on each annual
 70 financial audit required under s. 218.39 in the most recent 3
 71 fiscal years for which such audits are available.

72 (c) Did not receive a financial audit that revealed one or
 73 more of the financial emergency conditions set forth in s.
 74 218.503(1) in the most recent 3 fiscal years for which such
 75 audits are available. However, the condition is deemed met for a
 76 charter school-in-the-workplace if there is a finding in an
 77 audit that the school has the monetary resources available to
 78 cover any reported deficiency or that the deficiency does not
 79 result in a deteriorating financial condition pursuant to s.
 80 1002.345(1)(a)3.

81

82 A virtual charter school established under s. 1002.33 is not
 83 eligible for designation as a high-performing charter school.

84 (2) A high-performing charter school may:
 85 (a) Increase its student enrollment once per school year
 86 by up to 15 percent more than the capacity determined in the
 87 charter.
 88 (b) Expand grade levels within kindergarten through grade
 89 12 to add grade levels not already served if any annual
 90 enrollment increase resulting from grade level expansion is
 91 within the limit established in paragraph (a).
 92 (c) Submit a quarterly, rather than a monthly, financial
 93 statement to the sponsor pursuant to s. 1002.33(9)(g).
 94 (d) Consolidate under a single charter the charters of
 95 multiple high-performing charter schools operated in the same
 96 school district by the charter schools' governing board
 97 regardless of the renewal cycle.
 98 (e) Receive a 15-year charter renewal. The charter may be
 99 renewed for a shorter term at the option of the high-performing
 100 charter school. The charter is subject to annual review by the
 101 sponsor and may be terminated during its term pursuant to s.
 102 1002.33(8).
 103
 104 A high-performing charter school shall notify its sponsor in
 105 writing by March 1 if it intends to increase enrollment or
 106 expand grade levels the following school year. The written
 107 notice shall specify the amount of the enrollment increase and
 108 the grade levels that will be added, as applicable.
 109 (3) (a) A high-performing charter school may submit an
 110 application pursuant to s. 1002.33(6) in any school district in
 111 the state to establish and operate a new charter school that

112 will substantially replicate its educational program. An
 113 application submitted by a high-performing charter school must
 114 state that the application is being submitted pursuant to this
 115 paragraph and must include the verification letter provided by
 116 the Commissioner of Education pursuant to subsection (5). If the
 117 sponsor fails to act on the application within 60 days after
 118 receipt, the application is deemed approved and the procedure in
 119 s. 1002.33(6)(h) applies. If the sponsor denies the application,
 120 the high-performing charter school may appeal pursuant to s.
 121 1002.33(6).

122 (b) A high-performing charter school may not establish
 123 more than one charter school within the state under paragraph
 124 (a) in any year. A subsequent application to establish a charter
 125 school under paragraph (a) may not be submitted unless each
 126 charter school established in this manner achieves high-
 127 performing charter school status. A charter school established
 128 under paragraph (a) must meet class size requirements
 129 established under s. 1003.03, calculated at the classroom level.

130 (4) A high-performing charter school may not increase
 131 enrollment or expand grade levels following any school year in
 132 which it receives a school grade of "C" or below. If the charter
 133 school receives a school grade of "C" or below in any 2 years
 134 during the term of the charter awarded under subsection (2), the
 135 term of the charter may be modified by the sponsor and the
 136 charter school loses its high-performing charter school status
 137 until it regains that status under subsection (1).

138 (5) The Commissioner of Education, upon request by a
 139 charter school, shall verify that the charter school meets the

140 criteria in subsection (1) and provide a letter to the charter
 141 school and the sponsor stating that the charter school is a
 142 high-performing charter school pursuant to this section.

143 (6) A high-performing charter school replicated under this
 144 section may not be replicated as a virtual charter school.

145 Section 2. Section 1002.332, Florida Statutes, is created
 146 to read:

147 1002.332 High-performing charter school system.-

148 (1) For purposes of this section, the term:

149 (a) "Entity" means a municipality or other public entity
 150 that is authorized by law to operate a charter school or is a
 151 private, nonprofit corporation with tax-exempt status under s.
 152 501(c) (3) of the Internal Revenue Code.

153 (b) "High-performing charter school system" means an
 154 entity that:

155 1. Operates at least three high-performing charter schools
 156 in the state.

157 2. Operates a system of charter schools in which, during
 158 each of the previous 3 school years, at least 50 percent of the
 159 charter schools received a school grade of "A" and no charter
 160 school received a school grade below "B," pursuant to s.
 161 1008.34.

162 a. If the entity has assumed operation of a public school
 163 with a school grade of "C," that school's grade shall not be
 164 considered in determining high-performing charter school system
 165 status if the school attains and maintains a school grade of "B"
 166 or higher within 3 years after the entity assumes operation of
 167 the school. The charter school's grade shall be considered for

168 purposes of this sub-subparagraph beginning in year 4 after
 169 operations have been assumed.

170 b. If the entity has assumed operation of a public school
 171 with a school grade of "D" or "F," that school's grade shall not
 172 be considered in determining high-performing charter school
 173 system status if the school attains and maintains an increase in
 174 the school's grade within 3 years after the entity assumes
 175 operation of the school and attains and maintains a school grade
 176 of "B" or higher within 5 years after the entity assumes
 177 operation of the school. The charter school's grade shall be
 178 considered for purposes of this sub-subparagraph beginning in
 179 year 6 after operations have been assumed.

180 c. If the entity establishes a new charter school that
 181 serves a student population the majority of which resides in a
 182 school zone served by a public school that is identified as
 183 lowest performing under s. 1008.33(4)(b), that charter school's
 184 grade shall not be considered in determining high-performing
 185 charter school system status if it attains and maintains a
 186 school grade that is higher than that of the public school
 187 serving that school zone within 3 years after establishment and
 188 attains and maintains a school grade of "B" or higher within 5
 189 years after establishment. The charter school's grade shall be
 190 considered for purposes of this sub-subparagraph beginning in
 191 year 6 after operations have been assumed.

192 3. Has not received a financial audit that revealed one or
 193 more of the financial emergency conditions set forth in s.
 194 218.503(1) for any charter school assumed or established by the
 195 entity.

196 (2) (a) The Commissioner of Education, upon request by an
 197 entity, shall verify that the entity meets the criteria in
 198 subsection (1) and provide a letter to the entity stating that
 199 it is a high-performing charter school system.

200 (b) A high-performing charter school system may submit an
 201 application pursuant to s. 1002.33(6) in any school district in
 202 the state to establish and operate a new charter school that
 203 will substantially replicate the educational program of one or
 204 more of its existing high-performing charter schools. An
 205 application submitted by a high-performing charter school system
 206 must state that the application is being submitted pursuant to
 207 this paragraph and must include the verification letter provided
 208 by the Commissioner of Education pursuant to paragraph (a). If
 209 the sponsor fails to act on the application within 60 days after
 210 receipt, the application is deemed approved and the procedure in
 211 s. 1002.33(6) (h) applies. If the sponsor denies the application,
 212 the high-performing charter school system may appeal pursuant to
 213 s. 1002.33(6).

214 (c) A high-performing charter school system may not
 215 establish more than one charter school in a school district in
 216 any one year under paragraph (b). An application to establish a
 217 subsequent charter school under paragraph (b) in a school
 218 district may not be submitted unless each charter school
 219 established in the district in this manner achieves high-
 220 performing charter school status. A charter school established
 221 under paragraph (b) must meet class size requirements
 222 established under s. 1003.03, calculated at the classroom level.

223 (3) A high-performing charter school replicated under this
 224 section may not be replicated as a virtual charter school.

225 Section 3. Paragraph (b) of subsection (5), paragraphs
 226 (b), (c), (e), and (f) of subsection (6), subsection (7),
 227 paragraphs (b), (c), and (d) of subsection (8), paragraph (g) of
 228 subsection (9), paragraph (d) of subsection (10), and paragraph
 229 (b) of subsection (25) of section 1002.33, Florida Statutes, are
 230 amended, subsection (26) is renumbered as subsection (28), and
 231 new subsections (26) and (27) are added to that section, to
 232 read:

233 1002.33 Charter schools.—

234 (5) SPONSOR; DUTIES.—

235 (b) Sponsor duties.—

236 1.a. The sponsor shall monitor and review the charter
 237 school in its progress toward the goals established in the
 238 charter.

239 b. The sponsor shall monitor the revenues and expenditures
 240 of the charter school and perform the duties provided in s.
 241 1002.345.

242 c. The sponsor may approve a charter for a charter school
 243 before the applicant has identified space, equipment, or
 244 personnel, if the applicant indicates approval is necessary for
 245 it to raise working funds.

246 d. The sponsor's policies shall not apply to a charter
 247 school unless mutually agreed to by both the sponsor and the
 248 charter school.

249 e. The sponsor shall ensure that the charter is innovative
 250 and consistent with the state education goals established by s.
 251 1000.03(5).

252 f. The sponsor shall ensure that the charter school
 253 participates in the state's education accountability system. If
 254 a charter school falls short of performance measures included in
 255 the approved charter, the sponsor shall report such shortcomings
 256 to the Department of Education.

257 g. The sponsor shall not be liable for civil damages under
 258 state law for personal injury, property damage, or death
 259 resulting from an act or omission of an officer, employee,
 260 agent, or governing body of the charter school.

261 h. The sponsor shall not be liable for civil damages under
 262 state law for any employment actions taken by an officer,
 263 employee, agent, or governing body of the charter school.

264 i. The sponsor's duties to monitor the charter school
 265 shall not constitute the basis for a private cause of action.

266 j. The sponsor shall not impose additional reporting
 267 requirements on a charter school without providing reasonable
 268 and specific justification in writing to the charter school.

269 2. Immunity for the sponsor of a charter school under
 270 subparagraph 1. applies only with respect to acts or omissions
 271 not under the sponsor's direct authority as described in this
 272 section.

273 3. This paragraph does not waive a district school board's
 274 sovereign immunity.

275 4. A community college may work with the school district
 276 or school districts in its designated service area to develop

277 charter schools that offer secondary education. These charter
 278 schools must include an option for students to receive an
 279 associate degree upon high school graduation. A Florida College
 280 System institution may operate no more than one charter school
 281 that serves students in kindergarten through grade 12 if the
 282 institution operates an approved teacher preparation program
 283 under s. 1004.04 or s. 1004.85. District school boards shall
 284 cooperate with and assist the community college on the charter
 285 application. Community college applications for charter schools
 286 are not subject to the time deadlines outlined in subsection (6)
 287 and may be approved by the district school board at any time
 288 during the year. Community colleges may not report FTE for any
 289 students who receive FTE funding through the Florida Education
 290 Finance Program.

291 (6) APPLICATION PROCESS AND REVIEW.—Charter school
 292 applications are subject to the following requirements:

293 (b) A sponsor shall receive and review all applications
 294 for a charter school using an evaluation instrument developed by
 295 the Department of Education. ~~Beginning with the 2007-2008 school~~
 296 ~~year,~~ A sponsor shall receive and consider charter school
 297 applications received on or before August 1 of each calendar
 298 year for charter schools to be opened at the beginning of the
 299 school district's next school year, or to be opened at a time
 300 agreed to by the applicant and the sponsor. A sponsor may
 301 receive applications later than this date if it chooses. A
 302 sponsor may not charge an applicant for a charter any fee for
 303 the processing or consideration of an application, and a sponsor
 304 may not base its consideration or approval of an application

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305 upon the promise of future payment of any kind. Before approving
 306 or denying any application, the sponsor shall allow the
 307 applicant, upon receipt of written notification, at least 7
 308 calendar days to make technical or nonsubstantive corrections
 309 and clarifications, including, but not limited to, corrections
 310 of grammatical, typographical, and like errors or missing
 311 signatures, if such errors are identified by the sponsor as
 312 cause to deny the application.

313 1. In order to facilitate an accurate budget projection
 314 process, a sponsor shall be held harmless for FTE students who
 315 are not included in the FTE projection due to approval of
 316 charter school applications after the FTE projection deadline.
 317 In a further effort to facilitate an accurate budget projection,
 318 within 15 calendar days after receipt of a charter school
 319 application, a sponsor shall report to the Department of
 320 Education the name of the applicant entity, the proposed charter
 321 school location, and its projected FTE.

322 2. In order to ensure fiscal responsibility, an
 323 application for a charter school shall include a full accounting
 324 of expected assets, a projection of expected sources and amounts
 325 of income, including income derived from projected student
 326 enrollments and from community support, and an expense
 327 projection that includes full accounting of the costs of
 328 operation, including start-up costs.

329 3.a. A sponsor shall by a majority vote approve or deny an
 330 application no later than 60 calendar days after the application
 331 is received, unless the sponsor and the applicant mutually agree
 332 in writing to temporarily postpone the vote to a specific date,

333 at which time the sponsor shall by a majority vote approve or
 334 deny the application. If the sponsor fails to act on the
 335 application, an applicant may appeal to the State Board of
 336 Education as provided in paragraph (c). If an application is
 337 denied, the sponsor shall, within 10 calendar days after such
 338 denial, articulate in writing the specific reasons, based upon
 339 good cause, supporting its denial of the charter application and
 340 shall provide the letter of denial and supporting documentation
 341 to the applicant and to the Department of Education ~~supporting~~
 342 ~~those reasons.~~

343 b. An application submitted by a high-performing charter
 344 school identified pursuant to s. 1002.331 or a high-performing
 345 charter school system identified pursuant to s. 1002.332 may be
 346 denied by the sponsor only if the sponsor demonstrates by clear
 347 and convincing evidence that:

348 (I) The application does not materially comply with the
 349 requirements in paragraph (a);

350 (II) The charter school proposed in the application does
 351 not materially comply with the requirements in paragraphs
 352 (9) (a) - (f);

353 (III) The proposed charter school's educational program
 354 does not substantially replicate that of the applicant or one of
 355 the applicant's high-performing charter schools;

356 (IV) The applicant has made a material misrepresentation
 357 or false statement or concealed an essential or material fact
 358 during the application process; or

359 (V) The proposed charter school's educational program and
 360 financial management practices do not materially comply with the
 361 requirements of this section.

362
 363 Material noncompliance is a failure to follow requirements or a
 364 violation of prohibitions applicable to charter school
 365 applications, which failure is quantitatively or qualitatively
 366 significant either individually or when aggregated with other
 367 noncompliance. An applicant is considered to be replicating a
 368 high-performing charter school if the proposed school is
 369 substantially similar to at least one of the applicant's high-
 370 performing charter schools and the organization or individuals
 371 involved in the establishment and operation of the proposed
 372 school are significantly involved in the operation of replicated
 373 schools.

374 c. If the sponsor denies an application submitted by a
 375 high-performing charter school or a high-performing charter
 376 school system, the sponsor must, within 10 calendar days after
 377 such denial, state in writing the specific reasons, based upon
 378 the criteria in sub-subparagraph b., supporting its denial of
 379 the application and must provide the letter of denial and
 380 supporting documentation to the applicant and to the Department
 381 of Education. The applicant may appeal the sponsor's denial of
 382 the application directly to the State Board of Education for
 383 review pursuant to sub-subparagraph (c)3.b.

384 4. For budget projection purposes, the sponsor shall
 385 report to the Department of Education the approval or denial of
 386 a charter application within 10 calendar days after such

387 approval or denial. In the event of approval, the report to the
 388 Department of Education shall include the final projected FTE
 389 for the approved charter school.

390 5. Upon approval of a charter application, the initial
 391 startup shall commence with the beginning of the public school
 392 calendar for the district in which the charter is granted unless
 393 the sponsor allows a waiver of this subparagraph for good cause.

394 (c) 1. An applicant may appeal any denial of that
 395 applicant's application or failure to act on an application to
 396 the State Board of Education no later than 30 calendar days
 397 after receipt of the sponsor's decision or failure to act and
 398 shall notify the sponsor of its appeal. Any response of the
 399 sponsor shall be submitted to the State Board of Education
 400 within 30 calendar days after notification of the appeal. Upon
 401 receipt of notification from the State Board of Education that a
 402 charter school applicant is filing an appeal, the Commissioner
 403 of Education shall convene a meeting of the Charter School
 404 Appeal Commission to study and make recommendations to the State
 405 Board of Education regarding its pending decision about the
 406 appeal. The commission shall forward its recommendation to the
 407 state board no later than 7 calendar days prior to the date on
 408 which the appeal is to be heard.

409 2. The Charter School Appeal Commission may reject an
 410 appeal submission for failure to comply with procedural rules
 411 governing the appeals process. The rejection shall describe the
 412 submission errors. The appellant shall have 15 calendar days
 413 after notice of rejection in which to resubmit an appeal that
 414 meets the requirements set forth in State Board of Education

415 rule. An appeal submitted subsequent to such rejection is
 416 considered timely if the original appeal was filed within 30
 417 calendar days after receipt of notice of the specific reasons
 418 for the sponsor's denial of the charter application.

419 3.a. The State Board of Education shall by majority vote
 420 accept or reject the decision of the sponsor no later than 90
 421 calendar days after an appeal is filed in accordance with State
 422 Board of Education rule. ~~The Charter School Appeal Commission~~
 423 ~~may reject an appeal submission for failure to comply with~~
 424 ~~procedural rules governing the appeals process. The rejection~~
 425 ~~shall describe the submission errors. The appellant may have up~~
 426 ~~to 15 calendar days from notice of rejection to resubmit an~~
 427 ~~appeal that meets requirements of State Board of Education rule.~~
 428 ~~An application for appeal submitted subsequent to such rejection~~
 429 ~~shall be considered timely if the original appeal was filed~~
 430 ~~within 30 calendar days after receipt of notice of the specific~~
 431 ~~reasons for the sponsor's denial of the charter application. The~~
 432 State Board of Education shall remand the application to the
 433 sponsor with its written decision that the sponsor approve or
 434 deny the application. The sponsor shall implement the decision
 435 of the State Board of Education. The decision of the State Board
 436 of Education is not subject to the provisions of the
 437 Administrative Procedure Act, chapter 120.

438 b. If an appeal concerns an application submitted by a
 439 high-performing charter school identified pursuant to s.
 440 1002.331 or a high-performing charter school system identified
 441 pursuant to s. 1002.332, the State Board of Education shall

442 review the application denial to determine whether the sponsor
 443 has shown, by clear and convincing evidence, that:

444 (I) The application does not materially comply with the
 445 requirements in paragraph (a);

446 (II) The charter school proposed in the application does
 447 not materially comply with the requirements in paragraphs
 448 (9) (a)-(f);

449 (III) The proposed charter school's educational program
 450 does not substantially replicate that of the applicant or one of
 451 the applicant's high-performing charter schools;

452 (IV) The applicant has made a material misrepresentation
 453 or false statement or concealed an essential or material fact
 454 during the application process; or

455 (V) The proposed charter school's educational program and
 456 financial management practices do not materially comply with the
 457 requirements of this section.

458

459 The State Board of Education shall approve or reject the
 460 sponsor's denial of an application no later than 90 calendar
 461 days after an appeal is filed in accordance with State Board of
 462 Education rule. The State Board of Education shall remand the
 463 application to the sponsor with its written decision that the
 464 sponsor approve or deny the application. The sponsor shall
 465 implement the decision of the State Board of Education. The
 466 decision of the State Board of Education is not subject to the
 467 Administrative Procedure Act, chapter 120.

468 (e)1. A Charter School Appeal Commission is established to
 469 assist the commissioner and the State Board of Education with a

470 fair and impartial review of appeals by applicants whose charter
 471 applications have been denied, whose charter contracts have not
 472 been renewed, or whose charter contracts have been terminated by
 473 their sponsors.

474 2. The Charter School Appeal Commission may receive copies
 475 of the appeal documents forwarded to the State Board of
 476 Education, review the documents, gather other applicable
 477 information regarding the appeal, and make a written
 478 recommendation to the commissioner. The recommendation must
 479 state whether the appeal should be upheld or denied and include
 480 the reasons for the recommendation being offered. The
 481 commissioner shall forward the recommendation to the State Board
 482 of Education no later than 7 calendar days prior to the date on
 483 which the appeal is to be heard. The state board must consider
 484 the commission's recommendation in making its decision, but is
 485 not bound by the recommendation. The decision of the Charter
 486 School Appeal Commission is not subject to the provisions of the
 487 Administrative Procedure Act, chapter 120.

488 3. The commissioner shall appoint a number of ~~the~~ members
 489 to of the Charter School Appeal Commission sufficient to ensure
 490 that no potential conflict of interest exists for any commission
 491 appeal decision. Members shall serve without compensation but
 492 may be reimbursed for travel and per diem expenses in
 493 conjunction with their service. Of the members present at the
 494 time of appeal decisions before the commission, one-half of the
 495 members must represent currently operating charter schools, and
 496 one-half of the members must represent sponsors. The

497 commissioner or a named designee shall chair the Charter School
 498 Appeal Commission.

499 4. The chair shall convene meetings of the commission and
 500 shall ensure that the written recommendations are completed and
 501 forwarded in a timely manner. In cases where the commission
 502 cannot reach a decision, the chair shall make the written
 503 recommendation with justification, noting that the decision was
 504 rendered by the chair.

505 5. Commission members shall thoroughly review the
 506 materials presented to them from the appellant and the sponsor.
 507 The commission may request information to clarify the
 508 documentation presented to it. In the course of its review, the
 509 commission may facilitate the postponement of an appeal in those
 510 cases where additional time and communication may negate the
 511 need for a formal appeal and both parties agree, in writing, to
 512 postpone the appeal to the State Board of Education. A new date
 513 certain for the appeal shall then be set based upon the rules
 514 and procedures of the State Board of Education. Commission
 515 members shall provide a written recommendation to the state
 516 board as to whether the appeal should be upheld or denied. A
 517 fact-based justification for the recommendation must be
 518 included. The chair must ensure that the written recommendation
 519 is submitted to the State Board of Education members no later
 520 than 7 calendar days prior to the date on which the appeal is to
 521 be heard. Both parties in the case shall also be provided a copy
 522 of the recommendation.

523 (f)1. The Department of Education shall provide ~~offer~~ or
 524 arrange for training and technical assistance to charter schools

525 ~~school applicants~~ in developing and adjusting business plans and
 526 accounting for estimating costs and income. Training and
 527 technical ~~This~~ assistance shall also address, at a minimum,
 528 state and federal grant and student performance accountability
 529 reporting requirements and provide assistance in estimating
 530 ~~startup costs, projecting enrollment, and~~ identifying and
 531 applying for the types and amounts of state and federal
 532 financial assistance the charter school may be eligible to
 533 receive. The department may provide other technical assistance
 534 to an applicant upon written request.

535 2. A charter school applicant must participate in the
 536 training provided by the Department of Education after approval
 537 of an application but at least 30 calendar days before the first
 538 day of classes at the charter school ~~before filing an~~
 539 ~~application~~. However, a sponsor may require the charter school
 540 applicant to attend training provided by the sponsor in lieu of
 541 the department's training if the sponsor's training standards
 542 meet or exceed the standards developed by the department ~~of~~
 543 ~~Education~~. In such case, the sponsor may not require the charter
 544 school applicant to attend the training within 30 calendar days
 545 before the first day of classes at the charter school. The
 546 training must ~~shall~~ include instruction in accurate financial
 547 planning and good business practices. If the applicant is a
 548 management company or a ~~other~~ nonprofit organization, the
 549 charter school principal and the chief financial officer or his
 550 or her equivalent must also participate in the training. A
 551 sponsor may not require a high-performing charter school or

552 | high-performing charter school system applicant to participate
 553 | in the training described in this subparagraph more than once.

554 | (7) CHARTER.—The major issues involving the operation of a
 555 | charter school shall be considered in advance and written into
 556 | the charter. The charter shall be signed by the governing board
 557 | ~~body~~ of the charter school and the sponsor, following a public
 558 | hearing to ensure community input.

559 | (a) The charter shall address and criteria for approval of
 560 | the charter shall be based on:

561 | 1. The school's mission, the students to be served, and
 562 | the ages and grades to be included.

563 | 2. The focus of the curriculum, the instructional methods
 564 | to be used, any distinctive instructional techniques to be
 565 | employed, and identification and acquisition of appropriate
 566 | technologies needed to improve educational and administrative
 567 | performance which include a means for promoting safe, ethical,
 568 | and appropriate uses of technology which comply with legal and
 569 | professional standards. The charter shall ensure that reading is
 570 | a primary focus of the curriculum and that resources are
 571 | provided to identify and provide specialized instruction for
 572 | students who are reading below grade level. The curriculum and
 573 | instructional strategies for reading must be consistent with the
 574 | Sunshine State Standards and grounded in scientifically based
 575 | reading research.

576 | 3. The current incoming baseline standard of student
 577 | academic achievement, the outcomes to be achieved, and the
 578 | method of measurement that will be used. The criteria listed in
 579 | this subparagraph shall include a detailed description of:

580 a. How the baseline student academic achievement levels
581 and prior rates of academic progress will be established.

582 b. How these baseline rates will be compared to rates of
583 academic progress achieved by these same students while
584 attending the charter school.

585 c. To the extent possible, how these rates of progress
586 will be evaluated and compared with rates of progress of other
587 closely comparable student populations.

588

589 The district school board is required to provide academic
590 student performance data to charter schools for each of their
591 students coming from the district school system, as well as
592 rates of academic progress of comparable student populations in
593 the district school system.

594 4. The methods used to identify the educational strengths
595 and needs of students and how well educational goals and
596 performance standards are met by students attending the charter
597 school. The methods shall provide a means for the charter school
598 to ensure accountability to its constituents by analyzing
599 student performance data and by evaluating the effectiveness and
600 efficiency of its major educational programs. Students in
601 charter schools shall, at a minimum, participate in the
602 statewide assessment program created under s. 1008.22.

603 5. In secondary charter schools, a method for determining
604 that a student has satisfied the requirements for graduation in
605 s. 1003.43.

606 6. A method for resolving conflicts between the governing
607 board ~~body~~ of the charter school and the sponsor.

608 7. The admissions procedures and dismissal procedures,
609 including the school's code of student conduct.

610 8. The ways by which the school will achieve a
611 racial/ethnic balance reflective of the community it serves or
612 within the racial/ethnic range of other public schools in the
613 same school district.

614 9. The financial and administrative management of the
615 school, including a reasonable demonstration of the professional
616 experience or competence of those individuals or organizations
617 applying to operate the charter school or those hired or
618 retained to perform such professional services and the
619 description of clearly delineated responsibilities and the
620 policies and practices needed to effectively manage the charter
621 school. A description of internal audit procedures and
622 establishment of controls to ensure that financial resources are
623 properly managed must be included. Both public sector and
624 private sector professional experience shall be equally valid in
625 such a consideration.

626 10. The asset and liability projections required in the
627 application which are incorporated into the charter and shall be
628 compared with information provided in the annual report of the
629 charter school.

630 11. A description of procedures that identify various
631 risks and provide for a comprehensive approach to reduce the
632 impact of losses; plans to ensure the safety and security of
633 students and staff; plans to identify, minimize, and protect
634 others from violent or disruptive student behavior; and the
635 manner in which the school will be insured, including whether or

636 | not the school will be required to have liability insurance,
 637 | and, if so, the terms and conditions thereof and the amounts of
 638 | coverage.

639 | 12. The term of the charter which shall provide for
 640 | cancellation of the charter if insufficient progress has been
 641 | made in attaining the student achievement objectives of the
 642 | charter and if it is not likely that such objectives can be
 643 | achieved before expiration of the charter. The initial term of a
 644 | charter shall be for 4 or 5 years. In order to facilitate access
 645 | to long-term financial resources for charter school
 646 | construction, charter schools that are operated by a
 647 | municipality or other public entity as provided by law are
 648 | eligible for up to a 15-year charter, subject to approval by the
 649 | district school board. A charter lab school is eligible for a
 650 | charter for a term of up to 15 years. In addition, to facilitate
 651 | access to long-term financial resources for charter school
 652 | construction, charter schools that are operated by a private,
 653 | not-for-profit, s. 501(c)(3) status corporation are eligible for
 654 | up to a 15-year charter, subject to approval by the district
 655 | school board. Such long-term charters remain subject to annual
 656 | review and may be terminated during the term of the charter, but
 657 | only according to the provisions set forth in subsection (8).

658 | 13. The facilities to be used and their location.

659 | 14. The qualifications to be required of the teachers and
 660 | the potential strategies used to recruit, hire, train, and
 661 | retain qualified staff to achieve best value.

662 15. The governance structure of the school, including the
 663 status of the charter school as a public or private employer as
 664 required in paragraph (12)(i).

665 16. A timetable for implementing the charter which
 666 addresses the implementation of each element thereof and the
 667 date by which the charter shall be awarded in order to meet this
 668 timetable.

669 17. In the case of an existing public school that is being
 670 converted to charter status, alternative arrangements for
 671 current students who choose not to attend the charter school and
 672 for current teachers who choose not to teach in the charter
 673 school after conversion in accordance with the existing
 674 collective bargaining agreement or district school board rule in
 675 the absence of a collective bargaining agreement. However,
 676 alternative arrangements shall not be required for current
 677 teachers who choose not to teach in a charter lab school, except
 678 as authorized by the employment policies of the state university
 679 which grants the charter to the lab school.

680 18. Full disclosure of the identity of all relatives
 681 employed by the charter school who are related to the charter
 682 school owner, president, chairperson of the governing board of
 683 directors, superintendent, governing board member, principal,
 684 assistant principal, or any other person employed by the charter
 685 school who has equivalent decisionmaking authority. For the
 686 purpose of this subparagraph, the term "relative" means father,
 687 mother, son, daughter, brother, sister, uncle, aunt, first
 688 cousin, nephew, niece, husband, wife, father-in-law, mother-in-
 689 law, son-in-law, daughter-in-law, brother-in-law, sister-in-law,

690 stepfather, stepmother, stepson, stepdaughter, stepbrother,
 691 stepsister, half brother, or half sister.

692 19. Implementation of the activities authorized under s.
 693 1002.331 by the charter school when it satisfies the eligibility
 694 requirements for a high-performing charter school. A high-
 695 performing charter school shall notify its sponsor in writing by
 696 March 1 if it intends to increase enrollment or expand grade
 697 levels the following school year. The written notice shall
 698 specify the amount of the enrollment increase and the grade
 699 levels that will be added, as applicable.

700 (b)1. A charter may be renewed provided that a program
 701 review demonstrates that the criteria in paragraph (a) have been
 702 successfully accomplished and that none of the grounds for
 703 nonrenewal established by paragraph (8)(a) has been documented.
 704 In order to facilitate long-term financing for charter school
 705 construction, charter schools operating for a minimum of 3 years
 706 and demonstrating exemplary academic programming and fiscal
 707 management are eligible for a 15-year charter renewal. Such
 708 long-term charter is subject to annual review and may be
 709 terminated during the term of the charter.

710 2. The 15-year charter renewal that may be granted
 711 pursuant to subparagraph 1. shall be granted to a charter school
 712 that has received a school grade of "A" or "B" pursuant to s.
 713 1008.34 in 3 of the past 4 years and is not in a state of
 714 financial emergency or deficit position as defined by this
 715 section. Such long-term charter is subject to annual review and
 716 may be terminated during the term of the charter pursuant to
 717 subsection (8).

718 (c) A charter may be modified during its initial term or
 719 any renewal term upon the recommendation of the sponsor or the
 720 charter school governing board and the approval of both parties
 721 to the agreement.

722 (d) A school district may require that up to 50 percent of
 723 a charter school's governing board members reside in the school
 724 district in which the charter school is located. Each charter
 725 school's governing board must annually hold at least three
 726 public meetings in the school district. Such meetings must be
 727 open and accessible to the public, and attendees must be
 728 provided an opportunity to receive information and provide input
 729 regarding the charter school's affairs. A quorum of the
 730 governing board members must be physically present at each
 731 meeting.

732 (8) CAUSES FOR NONRENEWAL OR TERMINATION OF CHARTER.—

733 (b) At least 90 days prior to renewing or terminating a
 734 charter, the sponsor shall notify the governing board ~~body~~ of
 735 the school of the proposed action in writing. The notice shall
 736 state in reasonable detail the grounds for the proposed action
 737 and stipulate that the school's governing board ~~body~~ may, within
 738 14 calendar days after receiving the notice, request a an
 739 informal hearing. The hearing shall be conducted at the
 740 sponsor's election in accordance with one of the following
 741 procedures:

742 1. A direct hearing conducted by the sponsor within 60
 743 days after receipt of the request for a hearing. The hearing
 744 shall be conducted in accordance with ss. 120.569 and 120.57.

745 The sponsor shall decide upon nonrenewal or termination by a
 746 majority vote. The sponsor's decision shall be a final order; or
 747 2. A hearing conducted by an administrative law judge
 748 assigned by the Division of Administrative Hearings. The hearing
 749 shall be conducted within 60 days after receipt of the request
 750 for a hearing in accordance with chapter 120. The recommendation
 751 of the administrative law judge shall be made to the sponsor. A
 752 majority vote by the sponsor shall be required to sustain or
 753 change the administrative law judge's recommendation. The
 754 determination of the sponsor shall be a final order ~~before the~~
 755 ~~sponsor. The sponsor shall conduct the informal hearing within~~
 756 ~~30 calendar days after receiving a written request.~~

757 (c) The final order shall include the specific reasons for
 758 nonrenewal or termination of the charter and shall be provided
 759 to the charter school governing board and the Department of
 760 Education within 10 calendar days after the final order is
 761 issued. ~~If a charter is not renewed or is terminated pursuant to~~
 762 ~~paragraph (b), the sponsor shall, within 10 calendar days,~~
 763 ~~articulate in writing the specific reasons for its nonrenewal or~~
 764 ~~termination of the charter and must provide the letter of~~
 765 ~~nonrenewal or termination and documentation supporting the~~
 766 ~~reasons to the charter school governing body, the charter school~~
 767 ~~principal, and the Department of Education. The charter school's~~
 768 ~~governing board ~~body~~ may, within 30 calendar days after~~
 769 ~~receiving the sponsor's final order ~~written decision to refuse~~~~
 770 ~~to renew or to terminate the charter, appeal the decision~~
 771 ~~pursuant to s. 120.68 the procedure established in subsection~~
 772 ~~(6).~~

773 (d) A charter may be terminated immediately if the sponsor
 774 sets forth in writing the particular facts and circumstances
 775 indicating that an immediate and serious danger to ~~determines~~
 776 ~~that good cause has been shown or~~ if the health, safety, or
 777 welfare of the charter school's students exists ~~is threatened~~.
 778 The sponsor's determination is ~~not~~ subject to the procedures set
 779 forth in paragraphs ~~an informal hearing under paragraph (b) and~~
 780 (c), except that the hearing may take place after the charter
 781 has been terminated ~~or pursuant to chapter 120~~. The sponsor
 782 shall notify in writing the charter school's governing board
 783 ~~body~~, the charter school principal, and the department if a
 784 charter is ~~immediately~~ terminated immediately. The sponsor shall
 785 clearly identify the specific issues that resulted in the
 786 immediate termination and provide evidence of prior notification
 787 of issues resulting in the immediate termination when
 788 appropriate. Upon receiving written notice from the sponsor, the
 789 charter school's governing board has 10 calendar days to request
 790 a hearing. A requested hearing must be expedited and the final
 791 order must be issued within 60 days after the date of request.
 792 The sponsor shall assume operation of the charter school
 793 throughout the pendency of the hearing under paragraphs (b) and
 794 (c) unless the continued operation of the charter school would
 795 materially threaten the health, safety, or welfare of the
 796 students. Failure by the sponsor to assume and continue
 797 operation of the charter school shall result in the awarding of
 798 costs and attorney's fees to the charter school if the charter
 799 school prevails on appeal. ~~The school district in which the~~
 800 ~~charter school is located shall assume operation of the school~~

801 ~~under these circumstances. The charter school's governing board~~
 802 ~~may, within 30 days after receiving the sponsor's decision to~~
 803 ~~terminate the charter, appeal the decision pursuant to the~~
 804 ~~procedure established in subsection (6).~~

805 (9) CHARTER SCHOOL REQUIREMENTS.—

806 (g) In order to provide financial information that is
 807 comparable to that reported for other public schools, charter
 808 schools are to maintain all financial records that constitute
 809 their accounting system:

810 1. In accordance with the accounts and codes prescribed in
 811 the most recent issuance of the publication titled "Financial
 812 and Program Cost Accounting and Reporting for Florida Schools";
 813 or

814 2. At the discretion of the charter school governing
 815 board, a charter school may elect to follow generally accepted
 816 accounting standards for not-for-profit organizations, but must
 817 reformat this information for reporting according to this
 818 paragraph.

819

820 Charter schools shall provide annual financial report and
 821 program cost report information in the state-required formats
 822 for inclusion in district reporting in compliance with s.
 823 1011.60(1). Charter schools that are operated by a municipality
 824 or are a component unit of a parent nonprofit organization may
 825 use the accounting system of the municipality or the parent but
 826 must reformat this information for reporting according to this
 827 paragraph. A charter school shall provide a monthly financial
 828 statement to the sponsor unless the charter school is designated

829 as a high-performing charter school pursuant to s. 1002.331, in
 830 which case the high-performing charter school may provide a
 831 quarterly financial statement. The ~~monthly~~ financial statement
 832 required under this paragraph shall be in a form prescribed by
 833 the Department of Education.

834 (10) ELIGIBLE STUDENTS.—

835 (d) A charter school may give enrollment preference to the
 836 following student populations:

837 1. Students who are siblings of a student enrolled in the
 838 charter school.

839 2. Students who are the children of a member of the
 840 governing board of the charter school.

841 3. Students who are the children of an employee of the
 842 charter school.

843 4. Students who are the children of:

844 a. An employee of the business partner of a charter
 845 school-in-the-workplace established under paragraph (15)(b) or a
 846 resident of the municipality in which such charter school is
 847 located; or

848 b. A resident of a municipality that operates a charter
 849 school-in-a-municipality pursuant to paragraph (15)(c).

850 5. Students who have successfully completed a voluntary
 851 prekindergarten education program under ss. 1002.51-1002.79
 852 provided by the charter school or the charter school's nonprofit
 853 governing board during the previous year.

854 (25) STANDARDS OF CONDUCT AND FINANCIAL DISCLOSURE.—

855 (b) A member of a governing board of a charter school
 856 operated by a municipality or other public entity is subject to

857 s. 112.3145 ~~112.3144~~, which relates to the disclosure of
 858 financial interests.

859 (26) SHARED USE OF FACILITIES BY CHARTER SCHOOLS.-

860 (a) A charter school may not transfer an enrolled student
 861 to another charter school having a separate Master School
 862 Identification Number without first obtaining the written
 863 approval of the student's parent.

864 (b) A charter school is ineligible for federal charter
 865 school program grant funds during any period of time during
 866 which it:

867 1. Shares an educational facility with an existing charter
 868 school having a separate Master School Identification Number and
 869 serving students in any of the grades offered by that charter
 870 school; or

871 2. Shares administrative, instructional, or support staff
 872 with another charter school having a separate Master School
 873 Identification Number and operating within the same educational
 874 facility.

875 (27) LOCAL EDUCATIONAL AGENCY STATUS FOR CERTAIN CHARTER
 876 SCHOOL SYSTEMS.-A charter school system shall be designated a
 877 local educational agency solely for the purpose of receiving
 878 federal funds, in the same manner as if the charter school
 879 system were a school district, if the governing board of the
 880 charter school system has adopted and filed a resolution with
 881 its sponsoring district school board and the Department of
 882 Education in which the governing board accepts full
 883 responsibility for all local educational agency requirements and
 884 if the charter school system meets all of the following:

- 885 (a) Includes both conversion charter schools and
 886 nonconversion charter schools;
 887 (b) Has all schools located in the same county;
 888 (c) Has a total enrollment exceeding the total enrollment
 889 of at least one school district in the state;
 890 (d) Has the same governing board; and
 891 (e) Does not contract with a for-profit service provider
 892 for management of school operations.

893
 894 Such designation does not apply to other provisions of law
 895 unless specifically provided by law.

896 Section 4. (1) For the 2011-2012 fiscal year, the
 897 Department of Education shall:

898 (a) Identify the school districts that distribute funds or
 899 provide facilities, renovation, or new construction with funds
 900 generated by the capital improvement millage authorized under s.
 901 1011.71(2), Florida Statutes, to charter schools and the use of
 902 such funds by the charter schools.

903 (b) Examine the costs associated with supervising charter
 904 schools and determine whether the 5-percent administrative fee
 905 for administrative and educational services for charter schools
 906 covers the costs associated with the provision of the services.

907 (c) Examine the distribution of federal education funding
 908 to eligible students who are enrolled in charter schools,
 909 including, without limitation, funding provided under Title I of
 910 the Elementary and Secondary Education Act and the Individuals
 911 with Disabilities Education Act.

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2011

912 (d) Examine the impacts of removing the discretion given
 913 to school districts regarding the distribution of capital
 914 improvement millage authorized under s. 1011.71(2), Florida
 915 Statutes, to charter schools-in-a-municipality as set forth in
 916 s. 1002.33(15)(c), Florida Statutes.

917 (2) The Department of Education shall report its findings
 918 to the Governor, the President of the Senate, and the Speaker of
 919 the House of Representatives no later than January 1, 2012.

920 Section 5. This act shall take effect July 1, 2011.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 7195 PCB KINS 11-03 Charter Schools
SPONSOR(S): Appropriations Committee, K-20 Innovation Subcommittee, Stargel
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: K-20 Innovation Subcommittee	11 Y, 3 N	Beagle	Sherry
1) Appropriations Committee	23 Y, 1 N, As CS	Heflin	Leznoff
2) Education Committee		Beagle <i>GB</i>	Klebacha <i>HK</i>

SUMMARY ANALYSIS

The bill enables charter schools that demonstrate exemplary academic achievement and financial management to be deemed high-performing charter schools. A high-performing charter school may increase its enrollment once per year by up to 15 percent; add grade levels not already served; receive a 15-year charter; consolidate multiple high-performing charter schools under a single charter; and submit quarterly financial statements to its sponsor. A high-performing charter school that fails to sustain academic achievement will lose the benefits of high-performing charter school status.

The bill also enables entities which operate at least three high-performing charter schools in Florida and demonstrate sustained academic achievement and financial management by all schools operated by the entity to be deemed a high-performing charter school system. A new application process is established to enable both high-performing charter schools and high-performing charter school systems to replicate their successful charter school models. The bill limits the grounds for denying such applications and provides for direct appeal of application denials to the State Board of Education.

Additionally, the bill:

- Eliminates the informal hearing process for charter terminations and nonrenewal and requires the sponsor to provide a formal hearing, if requested by the charter school's governing board.
- Authorizes new enrollment preferences applicable to charter schools-in-the-workplace, charter schools-in-a-municipality, and children who complete a Voluntary Prekindergarten Education program provided by a charter school.
- Authorizes Florida College System institutions with approved teacher preparation programs to establish one charter school that serves students in kindergarten through grades 12.
- Requires the Commissioner of Education to appoint enough members to the Charter School Appeals Commission as necessary to avoid conflicts of interest.
- Authorizes school districts to require up to 50 percent of a charter school's governing board members to reside in the school district and requires the board to hold three public meetings annually.
- Establishes student transfer and federal grant eligibility requirements for charter schools operated under the same governing board as separate schools in shared facilities.
- Authorizes a charter school system to serve as its own local educational agency for federal funding purposes, if certain criteria are met.
- Directs the Department of Education to examine issues related to discretionary millage for capital outlay, federal funding provided to charter schools, and sponsor-provided administrative services.

The bill has a fiscal impact on state government. See Fiscal Comments.

The bill takes effect July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Charter schools¹ are nonsectarian, public schools that operate under a performance contract with a sponsor. This performance contract is known as a “charter.”² The charter exempts the school from many regulations applicable to traditional public schools in order to encourage the use of innovative learning methods.³ One of the guiding principles of charter schools is to meet high standards of student achievement and increase parental choice and student learning opportunities.⁴

A charter school may be sponsored by a district school board or, in the case of a charter lab school, by a state university.⁵ Each charter school is administered by a governing board.⁶ State universities, Florida College System (FCS) institutions, municipalities, and private, nonprofit 501(c)(3) status organizations⁷ may operate a charter school.⁸ In many cases, a charter school’s governing board contracts with a private, for-profit management company to provide management services on its behalf. Management companies provide, among other things, curriculum development, administrative, business, compliance, personnel, and student recruiting services.⁹

Charter School Applications

An application for a new charter school may be made by an individual, teachers, parents, a group of individuals, a municipality, or a legal entity organized under Florida law.¹⁰ Charter school applicants must participate in training provided by the Department of Education (DOE) or, under specified circumstances, by the sponsor before filing an application to establish a new charter school.¹¹ The training must include instruction in accurate financial planning and good business practices.¹²

A charter school application must be submitted by August 1st of each year for charter schools to be opened at the beginning of the following school year, unless the sponsor chooses a later date. Among other things, the application must include:

- A detailed curriculum plan aligned with the Next Generation Sunshine State Standards;
- Goals for improving student learning and measuring improvement;
- The reading curriculum and strategies for teaching reading to students who are below, at, or above grade level; and

¹ In the 2009-10 school year, 410 charter schools were operating in 43 of Florida’s 67 school districts and at two state universities. Charter schools served 137,196 students in that year. Florida Department of Education, *Charter Schools Program*, at 1 (Aug. 2010), available at, https://www.floridaschoolchoice.org/Information/Charter_Schools/files/fast_facts_charter_schools.pdf.

² Section 1002.33(7), F.S.

³ Section 1002.33(2) and (16), F.S.

⁴ Section 1002.33(2), F.S.

⁵ Section 1002.33(5)(a), F.S.

⁶ Section 1002.33(9)(h)-(j), F.S.

⁷ The internal revenue code defines a 501(c)(3) status organization as a private, nonprofit organization that is organized exclusively for religious, scientific, literary, or educational purposes or for the purpose of promoting amateur sports or for preventing cruelty to animals or children. These organizations are exempt from federal income taxes. 26 U.S.C. s. 501(c)(3).

⁸ Section 1002.33(5)(b)4., (12)(i), and (15)(b)-(c), F.S.

⁹ Telephone interview with Charter Schools Director, Florida Department of Education (March 17, 2011); Florida Department of Education, *Charter Schools – FAQs*, https://www.floridaschoolchoice.org/information/charter_schools/faqs.asp (last visited March 17, 2011).

¹⁰ Section 1002.33(3)(a), F.S.

¹¹ Section 1002.33(6)(f), F.S. The sponsor may provide applicant training if the training meets or exceeds DOE’s training standards. *Id.*; rule 6A-6.0785, F.A.C. (charter school applicant training standards).

¹² Section 1002.33(6)(f), F.S.

- An annual financial plan for each year of operation requested (up to five years) that sets forth the school's anticipated funds and assets, a spending plan, and sound fiscal policies for managing the school.¹³

A sponsor must approve or deny a charter school application, based upon good cause, within 60 days of receipt. If denied, the sponsor must provide to the applicant and DOE written notice stating the grounds for denial within ten days of its decision. There is no requirement that a charter school applicant be provided an opportunity to correct technical errors in its application before a decision on approval or denial is made.¹⁴

Application denials may be appealed to the State Board of Education. The Charter School Appeal Commission (CSAC) reviews charter school appeals filed with the state board, arising from the denial of charter applications or nonrenewal or termination of charter contracts.¹⁵ CSAC must review the appeal and make a written recommendation to the state board as to whether it should be upheld or denied. The state board must consider the CSAC's recommendation, but is not bound by it when making its final decision.¹⁶ Florida law requires the Commissioner of Education to appoint an equal number of charter school and sponsor representatives to CSAC. The commissioner, or his or her designee, serves as the chair of the commission.¹⁷

Charters

Upon approving a charter school application, the sponsor must deliver a charter to the applicant within 60 days, and the applicant and sponsor then have 75 days to negotiate its contents.¹⁸ Among other things, the charter includes:

- The curriculum;
- The grade levels and ages of students served;
- Baseline standards of student academic achievement, goals to be achieved, and the methods for measuring achievement of those goals;
- The financial and administrative management of the school and a description of internal audit controls;
- Asset and liability projections; and
- An agreement that the charter may be cancelled if the school fails to make sufficient progress towards student achievement goals.¹⁹

The initial term of a charter must be four or five years; however, if approved by the district school board, a charter school operated by a municipality or private nonprofit corporation may be granted an initial charter for a term of up to 15 years.²⁰ Florida law also provides opportunities for charter schools that demonstrate exemplary academic performance and financial management to be granted a long-term charter renewal. A sponsor:

- May grant a 15-year charter renewal to a charter school: (a) that has operated for at least three years; (b) that demonstrates exemplary academic programming and financial management; and (c) for which none of the grounds for nonrenewal have been documented.
- Must grant a 15-year charter renewal to a charter school that meets the above criteria, receives

¹³ Section 1002.33(6)(a) and (b), F.S.

¹⁴ Section 1002.33(6)(b)3., F.S.

¹⁵ Section 1002.33(6)(e)1., F.S. Additionally, if mediation fails to resolve a contractual dispute between a charter school and its sponsor regarding matters negotiated separately from the charter, an appeal may be made for a dispute resolution hearing before the commission. Section 1002.33(20)(b), F.S.

¹⁶ Section 1002.33(6)(e)2., F.S.

¹⁷ Section 1002.33(6)(e)3., F.S.; Florida Department of Education, *Charter School Appeal Commission: Membership Information* (2010), available at http://www.floridaschoolchoice.org/information/Charter_schools/files/CSAC_Member_Info.pdf.

¹⁸ Section 1002.33(6)(h), F.S.

¹⁹ Section 1002.33(7)(a), F.S.

²⁰ Section 1002.33(7)(a)12., F.S.

a school grade of “A” or “B” in three out of four years, and is not in a state of financial emergency or deficit position.²¹

A sponsor may terminate or not renew a charter for any of the following reasons:

- Failure to participate in the state’s education accountability system or meet the requirements for student performance stated in the charter;
- Failure to meet generally accepted standards of financial management;
- A violation of law; or
- Other good cause shown.²²

A sponsor must provide 90-days’ written notice to the charter school prior to termination or non-renewal. The charter school’s governing board may request an informal hearing with the sponsor and may appeal an adverse decision to the state board.²³ A charter may be terminated immediately if the sponsor determines that good cause has been shown or if the health, safety, or welfare of the students is threatened. An informal hearing is not required, but the sponsor’s decision may be appealed to the state board. When a charter is immediately terminated, the sponsor must assume operation of the school.²⁴

Student Enrollment

The student capacity of a charter school is annually determined by the governing board, in conjunction with the sponsor.²⁵ Prospective students must apply for enrollment in the charter school and, if the number of applications exceeds the school’s capacity, a random lottery must be used to determine which students are enrolled.²⁶ Florida law authorizes all charter schools to give an enrollment preference to the siblings of current charter school students, children of a member of the charter school governing board, or children of charter school employees.²⁷

A charter school-in-the-workplace must enroll students based upon a random lottery that involves all children seeking enrollment whose parents are employed by the school’s business partner.²⁸ Similarly, a charter school-in-a-municipality must enroll students based upon a random lottery that involves all children seeking enrollment whose parents are residents of the municipality.²⁹ Florida law authorizes a charter school-in-the-workplace and a charter school-in-a-municipality to limit enrollment to children of employees and children of residents, respectively. However, the law does not expressly state that a charter school-in-the-workplace or charter school-in-a-municipality may grant an *enrollment preference* to these students.³⁰

²¹ Section 1002.33(7)(b)1. and 2., F.S. Fifteen-year charters granted in this manner are subject to annual review by the sponsor and may be terminated on grounds currently specified in statute. *Id.*; see *infra* text accompanying note 22 (grounds for termination or nonrenewal of charter).

²² Section 1002.33(8)(a), F.S.

²³ Section 1002.33(8)(b) and (c), F.S.

²⁴ Section 1002.33(8)(d), F.S.

²⁵ Section 1002.33(10)(h), F.S.

²⁶ Section 1002.33(10)(b), F.S.

²⁷ Section 1002.33(10)(d), F.S.

²⁸ Section 1002.33(15)(b), F.S. Charter schools-in-the-workplace are sponsored by district school boards in partnership with a company or business. The business partner provides the school facility to be used. *Id.* Two charter schools-in-the-workplace operated in Florida during the 2009-10 school year. Email, Florida Department of Education, Legislative Affairs Director (Aug. 19, 2010).

²⁹ Section 1002.33(15)(c), F.S. Charter schools-in-a-municipality are sponsored by district school boards in partnership with a municipality. *Id.* Eleven charter schools-in-a-municipality operated in Florida during the 2009-10 school year. Email, Florida Department of Education, Legislative Affairs Director (Aug. 19, 2010).

³⁰ Section 1002.33(10)(d) and (e)3., F.S.

Approximately 38 charter schools participate in the Voluntary Prekindergarten Education (VPK) program.³¹ Florida law does not authorize charter schools to grant an enrollment preference to children who complete a VPK program provided by the school during the previous year. Thus, such children must reapply for admission and participate in the random lottery in order to enroll in kindergarten at the charter school.³²

A FCS institution, in cooperation with the school board or boards within its service area, may establish charter schools that offer secondary education and allow students to obtain an associate's degree upon graduation from high school. These charter schools may only serve students in grades 9 through 12.³³ Six of these charter schools operated during the 2009-10 school year.³⁴

Academic and Financial Accountability

Florida law establishes several requirements to hold charter schools accountable both financially and academically.³⁵ Among other things, charter schools must submit annual financial reports,³⁶ provide for an annual financial audit,³⁷ and submit to the sponsor monthly financial statements.³⁸ A charter school's annual financial audit must include any findings regarding material weaknesses in internal control; significant deficiencies in internal control; violations of law, contract provisions, or grant agreements; or abuse that may have a material effect on the charter school's financial statements.³⁹ Like traditional public schools, charter school students must take the Florida Comprehensive Assessment Test (FCAT) and statewide standardized end-of-course assessments and charter schools are graded annually.⁴⁰

Effect of Proposed Changes

The bill establishes high-performing charter school and high-performing charter school system qualifications and benefits to reward these schools and systems for exemplary academic performance and financial management. Additionally, the bill revises charter school application review, appeal, and applicant training requirements; revises due process requirements for charter termination and nonrenewal; authorizes new enrollment preferences; authorizes FCS institution charter schools to serve students in kindergarten through grade 12, if certain requirements are met; establishes requirements for charter schools operated under the same governing board as separate schools in shared facilities; authorizes a charter school system to serve as its own local educational agency for federal funding purposes; and requires DOE to review various issues related to charter school funding.

³¹ Email, Agency for Work Force Innovation, Office of Early Learning (March 9, 2011). These charter schools are listed in the Agency for Workforce Innovation's (AWI) provider database as public school providers. According to AWI, some charter schools may be providing the program as private providers; however, AWI's current data collection practices do not include a data element for distinguishing charter schools from other private providers. *Id.*

³² See s. 1002.33(10)(b) and (d), F.S.

³³ Section 1002.33(5)(b)4., F.S.

³⁴ Email, Florida Department of Education, Legislative Affairs Director (Aug. 19, 2010)(Collegiate High School at North West Florida State College in Okaloosa County; St. Petersburg Collegiate High School in Pinellas County; Polk State College (PSC) Collegiate High School; PSC Chain of Lakes Collegiate High School in Polk County; Clark Advanced Learning Center at Indian River State College-Chastain Campus in Martin County; and Edison Collegiate High School in Charlotte County).

³⁵ Sections 218.39, 218.503, 1002.33, and 1002.345, F.S.

³⁶ Section 1002.33(9)(g), F.S.

³⁷ Sections 218.39(1)(e) and (f) and 1002.33(9)(j)1. and 2., F.S.

Section 1002.33(9)(g), F.S.

³⁹ Section 10.856(2)(b)2.c., Rules of the Auditor General.

⁴⁰ Sections 1002.33(7)(a)4. and (9)(k)1., F.S. All public schools, including charter schools, which have at least 30 students with valid FCAT scores in reading for the current and prior years and at least 30 students with valid FCAT scores in mathematics for the current and prior years are assigned a school grade. Section 1008.34(3)(a)1., F.S.; rule 6A-1.09981(4), F.A.C.

High-Performing Charter Schools

Qualifications

The bill establishes qualifications enabling charter schools to receive “high-performing charter school” status. A high-performing charter school is a charter school that during each of the three previous years:

- Receives at least two school grades of “A” and no school grade below “B;”
- Has received an unqualified opinion⁴¹ on each annual financial audit; and
- Has not received an annual financial audit that reveals a financial emergency condition.⁴²

A charter school in the workplace satisfies audit requirements if the auditor finds that sufficient monetary resources are available to cover any reported deficiency or if the deficiency does not result in a deteriorating financial condition.⁴³

The Commissioner of Education, upon request by a charter school, must verify that the school meets the qualifications and provide a letter of eligibility to both the school and sponsor. Virtual charter schools are not eligible for “high-performing” status.⁴⁴

A total of 108 charter schools would qualify for high-performing charter school status based upon available school grade and audit data for the past three years. During this period, a total of 116 charter schools meet the school grade qualifications for high-performing charter school status. Of these charter schools, 79 received three consecutive school grades of “A” and 33 received two “A’s” and one “B.” Eight of the 116 charter schools that meet the school grade criteria would be disqualified due to a FY 2007-08 or 2008-09 audit revealing a financial emergency condition. The total number of charter schools that currently qualify for “high performing” status may be lower, as complete audit data is not yet available for FY 2009-10 and annual audit reports for this three-year period have not been reviewed to ascertain whether the audit opinion was “unqualified.”⁴⁵

Benefits

The bill authorizes high-performing charter schools to take advantage of various benefits. A high performing charter school may:

- Increase the school’s enrollment once per year by up to 15 percent of the maximum enrollment specified in the charter.
- Expand grade levels within kindergarten through grade 12 to add grade levels not already served, provided that any resulting increase in enrollment does not exceed the 15 percent limitation.
- Submit quarterly, rather than monthly, financial statements to its sponsor.
- Consolidate under a single charter the charters of multiple high-performing charter schools operated in the same school district by the school’s governing board, regardless of the charter renewal cycle.
- Receive a 15-year charter renewal. The charter may be renewed for a lesser term at the option

⁴¹ An unqualified audit opinion means that the charter school’s financial statements are materially correct. Telephone interview with Florida Auditor General staff (Mar. 24, 2011).

⁴² A financial emergency condition includes: failure to pay short-term loans, make bond debt service or pay long-term debt payments due to lack of funds; failure to pay uncontested creditor claims within 90 days; failure to pay withheld employee income taxes; failure for one pay period to pay, wages, salaries, and retirement benefits owed; or a fund balance or total net assets deficit. Section 218.503(1), F.S.

⁴³ A “deteriorating financial condition” is a circumstance that significantly impairs the ability of a charter school to generate enough revenues to meet its expenditures without causing the occurrence of a financial emergency condition described in s. 218.503(1). Section 1002.345(1)(a)3., F.S.

⁴⁴ CS/HB 7197, Digital Learning, if enacted, would authorize the establishment of virtual charter schools. CS/HB 7197(2011).

⁴⁵ Email, Florida Department of Education, Office of Independent Education and Parental Choice (April 7, 2011).

of the charter school, is subject to annual review by the sponsor, and may be terminated for grounds currently specified in statute.⁴⁶

A high-performing charter school may not increase enrollment or expand grade levels following any year in which it receives a school grade of "C." If it receives a school grade of "C" in any two years during the term of the 15-year charter, the term of the charter may be modified by the sponsor and the charter school loses "high-performing" status. High-performing charter school status may be regained by the school only after meeting the eligibility requirements in a new three-year cycle. Thus, high-performing charter schools must sustain exemplary academic performance or risk losing the benefits of "high-performing" status.

Flexibility to increase enrollment and expand grade levels will enable high-performing charter schools to serve more students. The 15-year charter will assist these schools in making long-term investments to improve facilities and educational programs. Submission of quarterly rather than monthly financial statements recognizes the school's track record of exemplary financial management and reduces the administrative burden associated with the financial monitoring process.

Charter school sponsors provide various administrative and educational services to sponsored charter schools.⁴⁷ In exchange for these services, the sponsor may withhold a fee calculated based upon up to five percent of the charter school's operating funds.⁴⁸ Consolidation of multiple high-performing charter schools under one charter will reduce the administrative fees that these schools pay for sponsor-provided services. Rather than being charged the five percent administrative fee for each individual charter school, consolidated schools will only be charged once.

As an additional benefit, a high-performing charter school may submit an application in any Florida school district to establish and operate a new charter school that substantially replicates its educational program. The application must indicate that the charter school is "high-performing" and include the commissioner's eligibility letter. The reasons a sponsor may deny the application are limited by the bill and denial may be appealed directly to the state board. Enabling high-performing charter schools to replicate will facilitate the statewide expansion of successful charter school models.

The number of new charter schools that a high-performing charter school may establish is limited to one in any given year. Such schools must comply with class size requirements at the classroom level, unlike other charter schools, which must comply at the school level. A high-performing charter school may not utilize this process to establish an additional charter school unless all schools previously established in this manner achieve high-performing charter school status. Thus, a high-performing charter school must demonstrate that each charter school it establishes is "high-performing" before establishing an additional school. These limitations increase the likelihood that a high-performing charter school will devote the resources necessary to establish and maintain these schools at a high level of academic and financial performance.

⁴⁶ See *supra* text accompanying note 22 (grounds for termination or nonrenewal of charter).

⁴⁷ Section 1002.33(20)(a)1., F.S. Services include contract management; student enrollment and achievement data reporting; federal program administration; and test administration for statewide assessments. *Id.*

⁴⁸ Section 1002.33(20)(a)2., F.S. For individual charter schools, the fee may be withheld for enrollment for up to 250 students. *Id.* For a system of charter schools, the administrative fee may be withheld for up to 500 students. A system of charter schools is one that includes both conversion and nonconversion charter schools; has all schools located in the same county; has a total enrollment exceeding that of at least one school district in the state; has the same governing board; and does not contract with a for-profit management company to operate the school. For systems, the difference between the total administrative fee calculation and the amount of the administrative fee withheld may be used for instructional, administrative, and capital outlay purposes. Section 1002.33(20)(a)3., F.S.

High-Performing Charter School Systems

Qualifications

The bill establishes qualifications for high-performing charter school system status. A high-performing charter school system is a system of charter schools operated by a municipality or other public entity that is authorized by law to operate a charter school or a private, not-for-profit, s. 501(c)(3) status corporation that:

- Includes at least three high-performing charter schools in Florida, as defined in the bill;
- Has not received an annual financial audit that revealed a financial emergency condition for any charter school operated by the entity in Florida.
- Operates a system of charter schools in which, during each of the previous three years, at least 50 percent of the system's schools received a school grade of "A" with no charter school graded below "B."

Upon request by the system, the Commissioner of Education must verify compliance with the eligibility requirements and provide a letter of eligibility to the system. If the system has assumed operation of a public school graded "C" or below, such a school is not considered in determining high-performing charter school system status, provided that the school improves by one letter grade each year until it receives at least a "B."

To alleviate concerns that the high academic performance standards for "high-performing" status may discourage systems from participating in school turnaround efforts, the bill allows systems a period of time to improve academic performance at low-performing public schools. When a system assumes operation of a low-performing public school, whether by converting a traditional public school into a charter school or by assuming operation of an existing charter school, such schools are not initially considered in determining high-performing charter school system status. If the system assumes operation of a public school graded "C," that school must attain and maintain a school grade of "B" or higher within three years. The school is considered in eligibility determinations in year four and thereafter. If the system assumes operation of a public school graded "D" or "F," that school must attain and maintain an increase in its school grade within three years and attain and maintain a school grade of "B" or higher within five years. The school is considered in eligibility determinations in year six and thereafter. A new charter school established in a school zone served by a chronically low-performing traditional public school is treated in a similar manner. The school must attain and maintain a higher school grade than the traditional public school serving the zone within three years and must attain and maintain "B" or higher within five years. The school is considered in eligibility determinations in year six and thereafter. Thus, systems are given time to turnaround low-performing schools; but must improve performance at these schools to keep "high-performing" status.

Benefits

A high-performing charter school system may submit an application in any Florida school district to establish and operate a new charter school that will replicate one of the system's existing high-performing charter schools. The application must indicate that the charter school system is "high-performing" and include the commissioner's eligibility letter. The reasons an application may be denied are limited by the bill and denial may be appealed directly to the state board. The number of new charter schools that a high-performing charter school system may replicate is limited to one per school district per year. Additional schools may not be replicated in the district unless all schools previously replicated in the district achieve high-performing charter school status. New charter schools established through this process must comply with class size requirements at the classroom level, unlike other charter schools, which must comply at the school level. Enabling high-performing charter school systems to replicate the system's high-performing charter schools will facilitate the statewide expansion of successful charter school models.

Charter School Applications

A charter school application submitted by a high-performing charter school or high-performing charter school system may only be denied if clear and convincing evidence⁴⁹ demonstrates:

- Material noncompliance with application requirements related to curricula, student learning goals, reading instruction, and financial management;
- Material noncompliance with law requiring charter schools to be nonsectarian; comply with student enrollment requirements; be accountable to the sponsor; be tuition free; and meet state and local health, safety, and civil rights requirements;
- That the proposed charter school does not substantially replicate one of the applicant's high-performing charter schools;
- That the applicant misrepresented important facts or concealed information during the application process; or
- The proposed charter school's educational program, financial management practices do not materially comply with the charter school statute.

The bill defines "material noncompliance" as a failure to follow requirements or a violation of prohibitions applicable to charter school applications which is quantitatively or qualitatively significant either individually or when aggregated with other noncompliance.

If an application submitted by a high-performing charter school or high-performing charter school system is denied, the sponsor must provide the applicant and DOE with a letter of denial stating its reasoning with supporting documentation. If the applicant appeals, review by the CSAC is bypassed, and the appeal goes directly to the state board. The state board must independently review whether the sponsor based its decision upon the denial criteria established by the bill. The heightened standards for application review and appeals will increase the likelihood that applications proposing high-performing charter school models will not be denied for nonmaterial reasons.

If the sponsor fails to act on an application submitted by a high-performing charter school or high-performing charter school system within 60 days of submission, the application is deemed approved. The applicant and sponsor must then enter into charter negotiations.

For all charter school applications, the bill requires a sponsor to allow the applicant at least 7 days to correct technical deficiencies, such as typographical errors or missing signatures, if such deficiencies are identified as cause to deny the application. This will decrease the likelihood that charter school applications will be denied based upon technical matters.

Currently, charter school applicants are required to attend training before submitting an application to establish a new charter school. DOE must provide technical assistance to applicants regarding such topics as business planning, income and cost estimating, and enrollment projections. The bill eliminates pre-application training and instead requires training only for applicants with approved charter school applications. Training and technical assistance topics are revised to reflect knowledge relevant to effective charter school management, such as cost and income accounting and school accountability and federal grant reporting.

Florida law requires the Commissioner of Education to appoint an equal number of charter school and sponsor representatives to CSAC. The bill requires the commissioner to appoint enough members to CSAC as necessary to avoid conflicts of interest.

⁴⁹ "Clear and convincing evidence" is evidence that is "positive, precise, and explicit" or "evidence indicating that the thing to be proved is highly probable or reasonably certain." *Slomowitz v. E.O. Walker*, 429 So.2d 797 (Fla. 4th DCA. 1983); Black's Law Dictionary (5th Ed. 1996).

Charter Termination or Nonrenewal

Currently, a charter school's governing board may request an informal hearing by the sponsor when the sponsor moves to terminate or not renew its charter. The sponsor's decision may be appealed to the state board. The bill eliminates the informal hearing process and requires the sponsor to provide a formal hearing, if requested by a charter school's governing board. The sponsor may choose to provide either a direct hearing or a hearing before an administrative law judge. A final order on termination or nonrenewal is appealable to the District Court of Appeals (DCA). These new due process procedures will better protect a charter school's contract rights under the charter and reduce the likelihood of arbitrary charter terminations.

Florida law currently authorizes a sponsor to immediately terminate a charter based upon good cause or if continued operation of the school threatens student health, safety, or welfare. Written notice of termination must be provided to the charter school's governing board and principal and to DOE. No hearing is required for immediate terminations, but the sponsor's decision may be appealed to the state board. The bill eliminates the "good cause" standard for immediate termination and instead requires a sponsor to state in the written notice specific facts indicating a danger to student health, safety, and welfare. The bill requires a sponsor to provide a formal hearing, if requested by the charter school's governing board. The hearing may occur after termination and is appealable to the DCA. Thus, a sponsor must state specific reasons for immediately terminating a charter and the validity of the termination will be vetted during a formal hearing.

As in current law, the sponsor must assume operation of a school following an immediate termination, unless continued operation of the charter school would materially threaten student health, safety, or welfare. The bill authorizes attorney's fees and costs to the charter school if the sponsor fails to assume operation of the school and the charter school prevails on appeal. This change increases the likelihood that the sponsor will assume operation of the school while the appeal is pending, thereby reducing the disruption imposed upon students at the school.

Student Enrollment

The bill authorizes a charter school-in-the-workplace to give an enrollment preference to children whose parents are employees of the school's business partner and children whose parents are residents of the municipality in which the school is located. Likewise, the bill authorizes a charter school-in-a-municipality to give an enrollment preference to children whose parents are residents of the municipality in which the school is located. Currently, a charter school-in-the-workplace may limit enrollment exclusively to children of employees and a charter school-in-a-municipality may limit enrollment exclusively to children of residents. The bill enables these charter schools to give a preference to these children, while still allowing other children to enroll in the school.

Additionally, the bill authorizes charter schools to give an enrollment preference to children who complete a VPK program provided by the charter school or the school's governing board during the previous year. Currently, such children must reapply for admission and participate in the random lottery in order to enroll in kindergarten at the charter school. The enrollment preference will enable these children to articulate directly into kindergarten at the charter school without reapplying and participating in the random lottery.

Currently, FCS institution charter schools may only serve students in the secondary grades. The bill adds provisions authorizing FCS institutions with approved teacher preparation programs to establish one charter school which serves students in kindergarten through grade 12. This will enable FCS institutions to use these charter schools as teaching labs for prospective teachers enrolled in their teacher preparation programs.

The bill requires a charter school to obtain parental consent before transferring a student to a charter school with a separate Master School Identification Number.⁵⁰ Additionally, the bill prohibits receipt of federal charter school start-up funds by charter schools which share the same facility but operate as separate schools if such schools serve any of the same grade levels or share administrative, instructional, or support staff.

Charter School Governing Boards

Currently, there is no requirement that charter school governing board members reside in the school district where the school is located. The bill authorizes school districts to require up to 50 percent of governing board members to reside in the school district. Additionally, the bill requires governing boards to hold at least three open public meetings annually in the district. This will increase local control of, and parental access and involvement in, charter school affairs.

Charter School Funding

Charter schools, like traditional public schools, receive federal education funding through such programs as the Title I of the Elementary and Secondary Education Act (Title I)⁵¹ and the Individuals with Disabilities Education Act. (IDEA).⁵² Typically, these programs are structured so that funding flows from the federal government to a state educational agency,⁵³ which then awards subgrants to local education agencies (LEA) within the state.⁵⁴ Each state determines which entities may serve as LEAs.⁵⁵ In Florida, school districts are the LEA for district public schools, including charter schools. Federal education funds are received by the school district, which then distributes to the charter school its proportionate share of funding.⁵⁶

Each federal education funding program has unique policy goals and program requirements. A LEA must submit a separate application and implementation plan for each federal program.⁵⁷ LEAs must have the personnel and infrastructure necessary to maintain financial, procurement, and inventory management systems that meet federal requirements.⁵⁸ LEAs must also comply with record keeping and annual financial and performance accountability reporting requirements.⁵⁹

The bill authorizes a governing board that operates a system of charter schools to serve as its own LEA for federal funding purposes, if certain criteria are met. The system must:

- File a resolution with its sponsor and DOE;

⁵⁰ Each Florida public school is assigned a Master School Identification Number for the purposes of indexing information about the school, e.g., location, grades served, special student populations, charter or other specialty school status, etc. Among other things, these numbers are used to identify the school for funding and school accountability purposes. Florida Department of Education, *Master School Identification File: 2010-11*, Technical Assistance Paper, at 1 (March 2011), *available at*, <http://www.fldoe.org/eias/dataweb/tech/msid.pdf>.

⁵¹ 20 U.S.C. s. 1400 et. seq.

⁵² 20 U.S.C. s. 6301 et. seq.; s. 1002.33(17)(c)-(d), F.S.

⁵³ The Florida Department of Education is Florida's state educational agency for federal funding purposes. *See* 20 U.S.C. s. 1412(a).

⁵⁴ *See* 20 U.S.C. ss. 1412(a) and 1413(a).

⁵⁵ Federal law broadly defines the term LEA to include state boards of education, state departments of education, local school boards, cities, counties, political subdivisions, public postsecondary institutions, or any other public entities that a state's law authorizes to administer public elementary and secondary schools. *See, e.g.*, 34 C.F.R. s. 77.1.

⁵⁶ Section 1002.33(17)(c), F.S.

⁵⁷ *See, e.g.*, 20 U.S.C. s. 6312 (local education agency Title I plans).

⁵⁸ 34 C.F.R. ss. 76.702 and 80.20-80.26 (financial management); 34 C.F.R. s. 80.36 (procurement management); 34 C.F.R. ss. 80.32 and 80.33 (inventory management).

34 C.F.R. ss. 76.702, 80.36, 80.32, 80.33, and 80.42 (fiscal, procurement, and inventory management records); 34 C.F.R. s. 80.41 (financial reports include status, cash transaction, and capital outlay reports). A LEA that fails to comply with the terms of a federal grant may be subject to withholding, suspension, or termination of grant funds or designated as a "high risk" grantee. 34 C.F.R. s. 80.43 (noncompliance with grant terms); 34 C.F.R. s. 80.12 (high-risk grantees). Grant recipients who commit fraud may be debarred or suspended from participation in all federally funded programs. 34 C.F.R. s. 80.43(d); Exec. Order No. 12549, 34 C.F.R. s. 80.35.

- Have all schools in same county;
- Have a total enrollment exceeding that of at least one school district;
- Operate both conversion and nonconversion charter schools;
- Not contract with a for-profit management company to operate schools; and
- Accept full responsibility for all LEA requirements.

Federal law allows for the designation of charter schools as LEAs.⁶⁰ Twenty-five states have laws authorizing at least some charter schools to serve as their own LEA.⁶¹ Two charter school systems in the state meet the bill's criteria for LEA status.⁶²

The bill directs DOE to:

- Identify school districts that distribute funds or provide facilities, renovation, or new construction with funds generated by millage for capital improvements and the use of such funds by charter schools.
- Examine the impacts of removing the school district discretion regarding the distribution of capital improvement millage to charter schools-in-a-municipality.
- Examine the costs associated with supervising charter schools and determine if the five percent administrative fee paid for sponsor-provided administrative and educational services covers the cost of such services.
- Examine the distribution of federal education funding to eligible students who are enrolled in charter schools.

DOE must report its findings to the Governor and Legislature by January 1, 2012.

Technical Correction

Legislation enacted in 2009 requires governing board members of a charter school operated by a municipality or other public entity to make certain financial disclosures. The legislation cross-referenced the wrong section of law, thereby inadvertently subjecting these board members to the financial disclosure requirements for elected constitutional officers, rather than those for local officers. The bill corrects this cross-reference.

B. SECTION DIRECTORY:

Section 1: Creating s. 1002.331, F.S.; establishing high-performing charter school status; providing eligibility criteria; requiring the Commissioner of Education to verify eligibility; requiring written notice of eligibility; providing benefits; establishing accountability requirements.

Section 2: Creating s. 1002.332, F.S.; establishing high-performing charter school system status; providing eligibility criteria; requiring the Commissioner of Education to verify eligibility; requiring written notice of eligibility; providing benefits.

Section 3: Amending s. 1002.33, F.S., relating to charter schools; authorizing FCS institutions to establish charter schools serving students in kindergarten through grade 12, if certain requirements are met; revising application requirements; revising appeal procedures; revising the required elements of a charter; authorizing a sponsor to require governing board members to reside in the school district; requiring annual governing board meetings; revising due process procedures for charter terminations or nonrenewal; revising financial reporting requirements; authorizing enrollment preferences; correcting a cross reference; establishing student transfer and federal grant eligibility requirements for certain charter schools; authorizing certain charter school systems to be an LEA for federal funding purposes.

See, e.g., 34 C.F.R. s. 76.787.

⁶¹ Education Commission of the States, *What Policymakers Need to Know: Highlights of State Charter School Laws*, (March 2010), available at, <http://www.ecs.org/clearinghouse/92/22/9222.pdf>. (AZ, AR, CA, CT, DE, DC, GA, ID, IL, IN, LA, MA, MI, MN, MO, NH, NJ, NY, OH, OK, PA, RI, TX, UT, and WI).

⁶² Telephone interview with Florida Department of Education (April 6, 2011).

Section 4: Requiring DOE to examine funding issues and report findings to the Governor and Legislature.

Section 5: Providing an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments Section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill allows high-performing charter schools to increase their enrollment once per year by up to 15 percent more than the capacity determined in the charter. An education enrollment estimating conference was held on April 11, 2011, and adopted a full-time equivalent (FTE) enrollment impact of:

- An estimate of \$0 for FY 2011-2012.
- An estimate of \$2.1 million for FY 2012-2013 using the low estimate adopted by the conference of 333 FTE and an estimated \$6,300 per FTE.
- An estimate of \$2.3 million for FY 2013-2014 using the low estimate adopted by the conference of 371 FTE and an estimated \$6,300 per FTE.

The bill also allows high-performing charter schools and high-performing charter school systems to be replicated in another school district. The high-performing charter school is limited to one school in the state per year. The high-performing charter school system is limited to one school in a school district per year. Allowing additional charter schools will increase public school The education enrollment estimating conference adopted an FTE enrollment impact of:

- An estimate of \$0 for FY 2011-2012.
- An estimate of \$3.0 million for FY 2012-2013 using the low estimate adopted by the conference of 480 FTE and an estimated \$6,300 per FTE.
- An estimate of \$9.3 million for FY 2013-2014 using the middle estimate adopted by the conference of 1,482 FTE and an estimated \$6,300 per FTE.

The total fiscal impact to the state is estimated to be:

- For FY 2011-2012 = \$0
- For FY 2012-2013 = \$5.1 million

- For FY 2013-2014 = \$11.6 million

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 28, 2011, the K-20 Innovation Subcommittee adopted one amendment and reported the Proposed Committee Bill favorably. The amendment removes bill provisions granting Academically High-Performing School Districts that meet certain criteria final authority to approve or deny charter school applications.

On April 15, 2011, the Appropriations Committee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment:

- Revises the benefits received by high-performing charter schools to:
 - Reduce the size of enrollment increases from 25% to 15%.
 - Allow 15-year charter renewal, rather than modification of the existing charter to a term of 15 years; and
 - Add authorization to consolidate under a single charter multiple high-performing charter schools operated in the same school district by the same governing board.
- Provides a grace period for high-performing charter school systems that take over a low-performing public school or establish a new charter school in a school zone served by a chronically low-performing public school. These schools are not counted in eligibility determinations during the grace period. The system must increase academic performance at the school during the grace period. The school counts towards eligibility at the end of the grace period.
- Limits the number of new charter schools a system may replicate to one per school district per year. Additional charter schools may not be established in the district unless all schools replicated in the district achieve "high-performing" status.
- Requires charter schools established by high-performing charter schools and systems to meet class size limits at the classroom level.
- Prohibits virtual charter schools from receiving high-performing charter school status and the replication of high-performing charter schools as virtual charter schools.

Additionally, the strike-all adds provisions:

- Authorizing FCS institutions with approved teacher preparation programs to establish one charter school that serves students in grades K-12.
- Requiring the Commissioner of Education to appoint enough members to the CSAC as necessary to avoid conflicts of interest.

- Authorizing school districts to require up to 50 percent of a charter school's governing board members to reside in the school district and requiring the board to hold three public meetings annually.
- Establishing student transfer and federal grant eligibility requirements for charter schools operated under the same governing board as separate schools in shared facilities.
- Authorizing a system of charter schools to serve as its own LEA for federal funding purposes if it meets certain criteria.

1 A bill to be entitled
2 An act relating to digital learning; creating s. 1002.321,
3 F.S.; creating the Digital Learning Now Act; providing
4 legislative findings related to the elements to be
5 included in high-quality digital learning; providing
6 digital preparation requirements; providing for customized
7 and accelerated learning; amending s. 1002.33, F.S.;
8 authorizing the establishment of virtual charter schools;
9 providing application requirements for establishment of a
10 virtual charter school; authorizing a charter school to
11 implement blended learning courses; providing requirements
12 for a virtual charter school governing board; providing
13 funding for a virtual charter school; establishing
14 administrative fees for a virtual charter school; amending
15 s. 1002.37, F.S.; redefining the term "full-time
16 equivalent student" as it applies to the Florida Virtual
17 School; providing instruction, funding, assessment, and
18 accountability requirements; amending s. 1002.45, F.S.;
19 requiring school districts to provide all public school
20 students the opportunity to participate in virtual
21 instruction programs; requiring school districts to
22 provide full-time and part-time virtual instruction
23 program options; authorizing a school district to enter
24 into an agreement with a virtual charter school to provide
25 virtual instruction to district students; authorizing
26 virtual charter school contracts; providing additional
27 provider qualifications relating to curriculum, student
28 performance accountability, and disclosure; revising

29 student eligibility requirements; providing funding and
 30 accountability requirements; creating s. 1002.455, F.S.;
 31 establishing student eligibility requirements for K-12
 32 virtual instruction; amending s. 1003.428, F.S.; requiring
 33 at least one course required for high school graduation to
 34 be completed through online learning; creating s.
 35 1003.498, F.S.; authorizing school districts to offer
 36 virtual courses and blended learning courses; amending s.
 37 1008.22, F.S.; requiring all statewide end-of-course
 38 assessments to be administrated online beginning with the
 39 2014-2015 school year; amending s. 1011.61, F.S.;
 40 redefining the term "full-time equivalent student" for
 41 purposes of virtual instruction; amending s. 1012.57,
 42 F.S.; authorizing school districts to issue adjunct
 43 teaching certificates to qualified applicants to provide
 44 online instruction; revising requirements for adjunct
 45 teaching certificateholders; providing for annual
 46 contracts; amending ss. 1000.04, 1002.20, and 1003.03,
 47 F.S.; conforming provisions to changes made by the act;
 48 requiring the Department of Education to submit a report
 49 to the Governor and the Legislature relating to school
 50 district offering of, and student access to, digital
 51 learning; providing an effective date.

52

53 Be It Enacted by the Legislature of the State of Florida:

54

55 Section 1. Section 1002.321, Florida Statutes, is created
 56 to read:

57 1002.321 Digital learning.-
 58 (1) DIGITAL LEARNING NOW ACT.-There is created the Digital
 59 Learning Now Act.
 60 (2) ELEMENTS OF HIGH-QUALITY DIGITAL LEARNING.-The
 61 Legislature finds that each student should have access to a
 62 high-quality digital learning environment that provides:
 63 (a) Access to digital learning.
 64 (b) Access to high-quality digital content and online
 65 courses.
 66 (c) Education that is customized to the needs of the
 67 student using digital content.
 68 (d) A means for the student to demonstrate competency in
 69 completed coursework.
 70 (e) High-quality digital content, instructional materials,
 71 and online and blended learning courses.
 72 (f) High-quality digital instruction and teachers.
 73 (g) Content and instruction that are evaluated on the
 74 metric of student learning.
 75 (h) The use of funding as an incentive for performance,
 76 options, and innovation.
 77 (i) Infrastructure that supports digital learning.
 78 (j) Online administration of state assessments.
 79 (3) DIGITAL PREPARATION.-Each student must graduate from
 80 high school having taken at least one online course, as provided
 81 in s. 1003.428.
 82 (4) CUSTOMIZED AND ACCELERATED LEARNING.-A school district
 83 must establish multiple opportunities for student participation
 84 in part-time and full-time kindergarten through grade 12 virtual

- 85 instruction. Options include, but are not limited to:
 86 (a) School district operated part-time or full-time
 87 virtual instruction programs under s. 1002.45(1)(b) for
 88 kindergarten through grade 12 students enrolled in the school
 89 district. A full-time program shall operate under its own Master
 90 School Identification Number.
 91 (b) Florida Virtual School instructional services
 92 authorized under s. 1002.37.
 93 (c) Blended learning instruction provided by charter
 94 schools authorized under s. 1002.33.
 95 (d) Full-time virtual charter school instruction
 96 authorized under s. 1002.33.
 97 (e) Courses delivered in the traditional school setting by
 98 personnel providing direct instruction through a virtual
 99 environment or through a blended virtual and physical environment
 100 pursuant to s. 1003.498.
 101 (f) Virtual courses offered in the course code directory
 102 to students within the school district or to students in other
 103 school districts throughout the state pursuant to s. 1003.498.

104 Section 2. Subsection (1), paragraph (a) of subsection
 105 (6), subsection (7), and paragraph (a) of subsection (20) of
 106 section 1002.33, Florida Statutes, are amended, and paragraph
 107 (f) is added to subsection (17) of that section, to read:

108 1002.33 Charter schools.—

109 (1) AUTHORIZATION.—Charter schools shall be part of the
 110 state's program of public education. All charter schools in
 111 Florida are public schools. A charter school may be formed by
 112 creating a new school or converting an existing public school to

113 | charter status. A charter school may operate a virtual charter
 114 | school pursuant to s. 1002.45(1)(d) to provide full-time online
 115 | instruction to eligible students, pursuant to s. 1002.455, in
 116 | kindergarten through grade 12. A charter school must amend its
 117 | charter or submit a new application pursuant to subsection (6)
 118 | to become a virtual charter school. A virtual charter school is
 119 | subject to the requirements of this section; however, a virtual
 120 | charter school is exempt from subsections (18) and (19),
 121 | subparagraphs (20)(a)2.-5., paragraph (20)(c), and s. 1003.03. A
 122 | public school may not use the term charter in its name unless it
 123 | has been approved under this section.

124 | (6) APPLICATION PROCESS AND REVIEW.—Charter school
 125 | applications are subject to the following requirements:

126 | (a) A person or entity wishing to open a charter school
 127 | shall prepare and submit an application on a model application
 128 | form prepared by the Department of Education which:

129 | 1. Demonstrates how the school will use the guiding
 130 | principles and meet the statutorily defined purpose of a charter
 131 | school.

132 | 2. Provides a detailed curriculum plan that illustrates
 133 | how students will be provided services to attain the Sunshine
 134 | State Standards.

135 | 3. Contains goals and objectives for improving student
 136 | learning and measuring that improvement. These goals and
 137 | objectives must indicate how much academic improvement students
 138 | are expected to show each year, how success will be evaluated,
 139 | and the specific results to be attained through instruction.

140 | 4. Describes the reading curriculum and differentiated

141 strategies that will be used for students reading at grade level
 142 or higher and a separate curriculum and strategies for students
 143 who are reading below grade level. A sponsor shall deny a
 144 charter if the school does not propose a reading curriculum that
 145 is consistent with effective teaching strategies that are
 146 grounded in scientifically based reading research.

147 5. Contains an annual financial plan for each year
 148 requested by the charter for operation of the school for up to 5
 149 years. This plan must contain anticipated fund balances based on
 150 revenue projections, a spending plan based on projected revenues
 151 and expenses, and a description of controls that will safeguard
 152 finances and projected enrollment trends.

153 6. Documents that the applicant has participated in the
 154 training required in subparagraph (f)2. A sponsor may require an
 155 applicant to provide additional information as an addendum to
 156 the charter school application described in this paragraph.

157 7. For the establishment of a virtual charter school,
 158 documents that the applicant has contracted with a provider of
 159 virtual instruction services pursuant to s. 1002.45(1)(d).

160 (7) CHARTER.—The major issues involving the operation of a
 161 charter school shall be considered in advance and written into
 162 the charter. The charter shall be signed by the governing board
 163 ~~body~~ of the charter school and the sponsor, following a public
 164 hearing to ensure community input.

165 (a) The charter shall address and criteria for approval of
 166 the charter shall be based on:

167 1. The school's mission, the students to be served, and
 168 the ages and grades to be included.

169 2. The focus of the curriculum, the instructional methods
 170 to be used, any distinctive instructional techniques to be
 171 employed, and identification and acquisition of appropriate
 172 technologies needed to improve educational and administrative
 173 performance which include a means for promoting safe, ethical,
 174 and appropriate uses of technology which comply with legal and
 175 professional standards.

176 a. The charter shall ensure that reading is a primary
 177 focus of the curriculum and that resources are provided to
 178 identify and provide specialized instruction for students who
 179 are reading below grade level. The curriculum and instructional
 180 strategies for reading must be consistent with the Sunshine
 181 State Standards and grounded in scientifically based reading
 182 research.

183 b. In order to provide students with access to diverse
 184 instructional delivery models, to facilitate the integration of
 185 technology within traditional classroom instruction, and to
 186 provide students with the skills they need to compete in the
 187 21st century economy, the Legislature encourages instructional
 188 methods for blended learning courses consisting of both
 189 traditional classroom and online instructional techniques.
 190 Charter schools may implement blended learning courses which
 191 combine traditional classroom instruction and virtual
 192 instruction. Students in a blended learning course must be full-
 193 time students of the charter school and receive the online
 194 instruction in a classroom setting at the charter school.
 195 Instructional personnel certified pursuant to s. 1012.55 who
 196 provide virtual instruction for blended learning courses may be

197 employees of the charter school or may be under contract to
 198 provide instructional services to charter school students. At a
 199 minimum, such instructional personnel must hold an active state
 200 or school district adjunct certification under s. 1012.57 for
 201 the subject area of the blended learning course. The funding and
 202 performance accountability requirements for blended learning
 203 courses are the same as those for traditional courses.

204 3. The current incoming baseline standard of student
 205 academic achievement, the outcomes to be achieved, and the
 206 method of measurement that will be used. The criteria listed in
 207 this subparagraph shall include a detailed description of:

208 a. How the baseline student academic achievement levels
 209 and prior rates of academic progress will be established.

210 b. How these baseline rates will be compared to rates of
 211 academic progress achieved by these same students while
 212 attending the charter school.

213 c. To the extent possible, how these rates of progress
 214 will be evaluated and compared with rates of progress of other
 215 closely comparable student populations.

216
 217 The district school board is required to provide academic
 218 student performance data to charter schools for each of their
 219 students coming from the district school system, as well as
 220 rates of academic progress of comparable student populations in
 221 the district school system.

222 4. The methods used to identify the educational strengths
 223 and needs of students and how well educational goals and
 224 performance standards are met by students attending the charter

225 | school. The methods shall provide a means for the charter school
 226 | to ensure accountability to its constituents by analyzing
 227 | student performance data and by evaluating the effectiveness and
 228 | efficiency of its major educational programs. Students in
 229 | charter schools shall, at a minimum, participate in the
 230 | statewide assessment program created under s. 1008.22.

231 | 5. In secondary charter schools, a method for determining
 232 | that a student has satisfied the requirements for graduation in
 233 | s. 1003.43.

234 | 6. A method for resolving conflicts between the governing
 235 | board ~~body~~ of the charter school and the sponsor.

236 | 7. The admissions procedures and dismissal procedures,
 237 | including the school's code of student conduct.

238 | 8. The ways by which the school will achieve a
 239 | racial/ethnic balance reflective of the community it serves or
 240 | within the racial/ethnic range of other public schools in the
 241 | same school district.

242 | 9. The financial and administrative management of the
 243 | school, including a reasonable demonstration of the professional
 244 | experience or competence of those individuals or organizations
 245 | applying to operate the charter school or those hired or
 246 | retained to perform such professional services and the
 247 | description of clearly delineated responsibilities and the
 248 | policies and practices needed to effectively manage the charter
 249 | school. A description of internal audit procedures and
 250 | establishment of controls to ensure that financial resources are
 251 | properly managed must be included. Both public sector and
 252 | private sector professional experience shall be equally valid in

253 | such a consideration.

254 | 10. The asset and liability projections required in the
255 | application which are incorporated into the charter and shall be
256 | compared with information provided in the annual report of the
257 | charter school.

258 | 11. A description of procedures that identify various
259 | risks and provide for a comprehensive approach to reduce the
260 | impact of losses; plans to ensure the safety and security of
261 | students and staff; plans to identify, minimize, and protect
262 | others from violent or disruptive student behavior; and the
263 | manner in which the school will be insured, including whether or
264 | not the school will be required to have liability insurance,
265 | and, if so, the terms and conditions thereof and the amounts of
266 | coverage.

267 | 12. The term of the charter which shall provide for
268 | cancellation of the charter if insufficient progress has been
269 | made in attaining the student achievement objectives of the
270 | charter and if it is not likely that such objectives can be
271 | achieved before expiration of the charter. The initial term of a
272 | charter shall be for 4 or 5 years. In order to facilitate access
273 | to long-term financial resources for charter school
274 | construction, charter schools that are operated by a
275 | municipality or other public entity as provided by law are
276 | eligible for up to a 15-year charter, subject to approval by the
277 | district school board. A charter lab school is eligible for a
278 | charter for a term of up to 15 years. In addition, to facilitate
279 | access to long-term financial resources for charter school
280 | construction, charter schools that are operated by a private,

281 not-for-profit, s. 501(c)(3) status corporation are eligible for
 282 up to a 15-year charter, subject to approval by the district
 283 school board. Such long-term charters remain subject to annual
 284 review and may be terminated during the term of the charter, but
 285 only according to the provisions set forth in subsection (8).

286 13. The facilities to be used and their location.

287 14. The qualifications to be required of the teachers and
 288 the potential strategies used to recruit, hire, train, and
 289 retain qualified staff to achieve best value.

290 15. The governance structure of the school, including the
 291 status of the charter school as a public or private employer as
 292 required in paragraph (12)(i).

293 16. A timetable for implementing the charter which
 294 addresses the implementation of each element thereof and the
 295 date by which the charter shall be awarded in order to meet this
 296 timetable.

297 17. In the case of an existing public school that is being
 298 converted to charter status, alternative arrangements for
 299 current students who choose not to attend the charter school and
 300 for current teachers who choose not to teach in the charter
 301 school after conversion in accordance with the existing
 302 collective bargaining agreement or district school board rule in
 303 the absence of a collective bargaining agreement. However,
 304 alternative arrangements shall not be required for current
 305 teachers who choose not to teach in a charter lab school, except
 306 as authorized by the employment policies of the state university
 307 which grants the charter to the lab school.

308 18. Full disclosure of the identity of all relatives

309 employed by the charter school who are related to the charter
 310 school owner, president, chairperson of the governing board of
 311 directors, superintendent, governing board member, principal,
 312 assistant principal, or any other person employed by the charter
 313 school who has equivalent decisionmaking authority. For the
 314 purpose of this subparagraph, the term "relative" means father,
 315 mother, son, daughter, brother, sister, uncle, aunt, first
 316 cousin, nephew, niece, husband, wife, father-in-law, mother-in-
 317 law, son-in-law, daughter-in-law, brother-in-law, sister-in-law,
 318 stepfather, stepmother, stepson, stepdaughter, stepbrother,
 319 stepsister, half brother, or half sister.

320 (b)1. A charter may be renewed provided that a program
 321 review demonstrates that the criteria in paragraph (a) have been
 322 successfully accomplished and that none of the grounds for
 323 nonrenewal established by paragraph (8)(a) has been documented.
 324 In order to facilitate long-term financing for charter school
 325 construction, charter schools operating for a minimum of 3 years
 326 and demonstrating exemplary academic programming and fiscal
 327 management are eligible for a 15-year charter renewal. Such
 328 long-term charter is subject to annual review and may be
 329 terminated during the term of the charter.

330 2. The 15-year charter renewal that may be granted
 331 pursuant to subparagraph 1. shall be granted to a charter school
 332 that has received a school grade of "A" or "B" pursuant to s.
 333 1008.34 in 3 of the past 4 years and is not in a state of
 334 financial emergency or deficit position as defined by this
 335 section. Such long-term charter is subject to annual review and
 336 may be terminated during the term of the charter pursuant to

337 subsection (8).

338 (c) A charter may be modified during its initial term or
 339 any renewal term upon the recommendation of the sponsor or the
 340 charter school governing board and the approval of both parties
 341 to the agreement.

342 (d) A school district may require that up to 50 percent of
 343 a virtual charter school's governing board members reside in the
 344 school district in which the virtual charter school is
 345 sponsored. Each virtual charter school's governing board must
 346 annually hold at least three public meetings in the school
 347 district. Such meetings must be open and accessible to the
 348 public, and attendees must be provided an opportunity to receive
 349 information and provide input regarding the charter school's
 350 affairs. A quorum of the governing board members must be
 351 physically present at each meeting.

352 (17) FUNDING.—Students enrolled in a charter school,
 353 regardless of the sponsorship, shall be funded as if they are in
 354 a basic program or a special program, the same as students
 355 enrolled in other public schools in the school district. Funding
 356 for a charter lab school shall be as provided in s. 1002.32.

357 (f) Funding for a virtual charter school shall be as
 358 provided in s. 1002.45(7).

359 (20) SERVICES.—

360 (a)1. A sponsor shall provide certain administrative and
 361 educational services to charter schools. These services shall
 362 include contract management services; full-time equivalent and
 363 data reporting services; exceptional student education
 364 administration services; services related to eligibility and

365 reporting duties required to ensure that school lunch services
 366 under the federal lunch program, consistent with the needs of
 367 the charter school, are provided by the school district at the
 368 request of the charter school, that any funds due to the charter
 369 school under the federal lunch program be paid to the charter
 370 school as soon as the charter school begins serving food under
 371 the federal lunch program, and that the charter school is paid
 372 at the same time and in the same manner under the federal lunch
 373 program as other public schools serviced by the sponsor or the
 374 school district; test administration services, including payment
 375 of the costs of state-required or district-required student
 376 assessments; processing of teacher certificate data services;
 377 and information services, including equal access to student
 378 information systems that are used by public schools in the
 379 district in which the charter school is located. Student
 380 performance data for each student in a charter school,
 381 including, but not limited to, FCAT scores, standardized test
 382 scores, previous public school student report cards, and student
 383 performance measures, shall be provided by the sponsor to a
 384 charter school in the same manner provided to other public
 385 schools in the district.

386 2. A total administrative fee for the provision of such
 387 services shall be calculated based upon up to 5 percent of the
 388 available funds defined in paragraph (17)(b) for all students.
 389 However, a sponsor may only withhold up to a 5-percent
 390 administrative fee for enrollment for up to and including 250
 391 students. For charter schools with a population of 251 or more
 392 students, the difference between the total administrative fee

393 calculation and the amount of the administrative fee withheld
 394 may only be used for capital outlay purposes specified in s.
 395 1013.62(2).

396 3. In addition, a sponsor may withhold only up to a 5-
 397 percent administrative fee for enrollment for up to and
 398 including 500 students within a system of charter schools which
 399 meets all of the following:

- 400 a. Includes both conversion charter schools and
- 401 nonconversion charter schools;
- 402 b. Has all schools located in the same county;
- 403 c. Has a total enrollment exceeding the total enrollment
- 404 of at least one school district in the state;
- 405 d. Has the same governing board; and
- 406 e. Does not contract with a for-profit service provider
- 407 for management of school operations.

408 4. The difference between the total administrative fee
 409 calculation and the amount of the administrative fee withheld
 410 pursuant to subparagraph 3. may be used for instructional and
 411 administrative purposes as well as for capital outlay purposes
 412 specified in s. 1013.62(2).

413 5. Each charter school shall receive 100 percent of the
 414 funds awarded to that school pursuant to s. 1012.225. Sponsors
 415 shall not charge charter schools any additional fees or
 416 surcharges for administrative and educational services in
 417 addition to the maximum 5-percent administrative fee withheld
 418 pursuant to this paragraph.

419 6. The sponsor of a virtual charter school may withhold a
 420 fee of up to 5 percent. The funds shall be used to cover the

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421 cost of services provided under subparagraph 1. and for the
 422 school district's local instructional improvement system
 423 pursuant to s. 1006.281 or other technological tools that are
 424 required to access electronic and digital instructional
 425 materials.

426 Section 3. Paragraph (a) of subsection (3) of section
 427 1002.37, Florida Statutes, is amended, and subsections (8), (9),
 428 (10), and (11) are added to that section, to read:

429 1002.37 The Florida Virtual School.—

430 (3) Funding for the Florida Virtual School shall be
 431 provided as follows:

432 (a) 1. For a student in grades 9 through 12, a "full-time
 433 equivalent student" for the Florida Virtual School is one
 434 student who has successfully completed six full-credit courses
 435 ~~credits~~ that shall count toward the minimum number of credits
 436 required for high school graduation. A student who completes
 437 fewer less than six full-credit courses is ~~credits shall be~~ a
 438 fraction of a full-time equivalent student. Half-credit course
 439 completions shall be included in determining a full-time
 440 equivalent student. Credit completed by a student in excess of
 441 the minimum required for that student for high school graduation
 442 is not eligible for funding.

443 2. For a student in kindergarten through grade 8, a "full-
 444 time equivalent student" is one student who has successfully
 445 completed six courses or the prescribed level of content that
 446 counts toward promotion to the next grade. A student who
 447 completes fewer than six courses or the prescribed level of
 448 content shall be a fraction of a full-time equivalent student.

449 3. Beginning in the 2014-2015 fiscal year, when s.
 450 1008.22(3)(g) is implemented, the reported full-time equivalent
 451 students and associated funding of students enrolled in courses
 452 requiring passage of an end-of-course assessment shall be
 453 adjusted after the student completes the end-of-course
 454 assessment. However, no adjustment shall be made for home
 455 education program students who choose not to take an end-of-
 456 course assessment.

457
 458 For purposes of this paragraph, the calculation of "full-time
 459 equivalent student" shall be as prescribed in s.
 460 1011.61(1)(c)1.b.(V).

461 (8)(a) The Florida Virtual School may provide full-time
 462 instruction for students in kindergarten through grade 12 and
 463 part-time instruction for students in grades 4 through 12. Part-
 464 time instruction for grades 4 and 5 may be provided only to
 465 public school students taking grade 6 through grade 8 courses.

466 (b) For students receiving part-time instruction in grades
 467 4 and 5 and students receiving full-time instruction in
 468 kindergarten through grade 12 from the Florida Virtual School,
 469 the combined total of all FTE reported by both the school
 470 district and the Florida Virtual School may not exceed 1.0 FTE.

471 (9) Each elementary school principal must notify the
 472 parent of each student who scores at Level 4 or Level 5 on FCAT
 473 Reading or FCAT Mathematics of the option for the student to
 474 take accelerated courses through the Florida Virtual School.

475 (10)(a) Public school students receiving full-time
 476 instruction in kindergarten through grade 12 by the Florida

477 Virtual School must take all statewide assessments required
 478 pursuant to s. 1008.22.

479 (b) Public school students receiving part-time instruction
 480 by the Florida Virtual School in courses requiring statewide
 481 end-of-course assessments must take all statewide end-of-course
 482 assessments required pursuant to s. 1008.22(3)(c)2.

483 (c) All statewide assessments must be taken within the
 484 school district in which the student resides. A school district
 485 must provide the student with access to the district's testing
 486 facilities.

487 (11) The Florida Virtual School shall receive a school
 488 grade pursuant to s. 1008.34 for students receiving full-time
 489 instruction.

490 Section 4. Section 1002.45, Florida Statutes, is amended
 491 to read:

492 1002.45 ~~School district~~ Virtual instruction programs.-

493 (1) PROGRAM.-

494 (a) For purposes of this section, the term:

495 1. "Approved provider" means a provider that is approved
 496 by the Department of Education under subsection (2), the Florida
 497 Virtual School, a franchise of the Florida Virtual School, or a
 498 community college.

499 2. "Virtual instruction program" means a program of
 500 instruction provided in an interactive learning environment
 501 created through technology in which students are separated from
 502 their teachers by time or space, or both, ~~and in which a~~
 503 ~~Florida-certified teacher under chapter 1012 is responsible for~~
 504 ~~at least:~~

505 ~~a. Fifty percent of the direct instruction to students in~~
 506 ~~kindergarten through grade 5; or~~

507 ~~b. Eighty percent of the direct instruction to students in~~
 508 ~~grades 6 through 12.~~

509 (b) ~~Beginning with the 2009-2010 school year,~~ Each school
 510 district shall provide all enrolled public school eligible
 511 students within its boundaries multiple opportunities for
 512 participation the option of participating in part-time and full-
 513 time a virtual instruction program options. Each school district
 514 must provide at least three virtual instruction program options
 515 and provide parents with timely written notification of an open
 516 enrollment period for full-time students of at least 90 days
 517 that ends no later than 30 days prior to the first day of the
 518 school year. The purpose of the program is to make quality
 519 virtual instruction available to students using online and
 520 distance learning technology in the nontraditional classroom. A
 521 school district virtual instruction ~~The program shall provide~~
 522 the following be:

523 1. Full-time virtual instruction for students enrolled in
 524 kindergarten through grade 12.

525 2. ~~Full-time or~~ Part-time virtual instruction for students
 526 enrolled in grades 9 through 12 courses that are measured
 527 pursuant to subparagraph (8)(a)2.

528 3. Full-time or part-time virtual instruction for students
 529 ~~who are~~ enrolled in dropout prevention and academic intervention
 530 programs under s. 1003.53, Department of Juvenile Justice
 531 education programs under s. 1003.52, core-curricula courses to
 532 meet class size requirements under s. 1003.03, or community

533 colleges under this section.

534 (c) To provide students with the option of participating
 535 in virtual instruction programs as required by paragraph (b), a
 536 school district may:

537 1. Contract with the Florida Virtual School or establish a
 538 franchise of the Florida Virtual School for the provision of a
 539 program under paragraph (b). Using this option is subject to the
 540 requirements of this section and s. 1011.61(1)(c)1.b.(III) and
 541 (IV).

542 2. Contract with an approved provider under subsection (2)
 543 for the provision of a full-time program under subparagraph
 544 (b)1. or subparagraph (b)3. or a ~~full-time or~~ part-time program
 545 under subparagraph (b)2. or subparagraph (b)3.

546 3. Enter into an agreement with other ~~another~~ school
 547 districts ~~district~~ to allow the participation of its students in
 548 an approved virtual instruction program provided by the other
 549 school district. The agreement must indicate a process for the
 550 transfer of funds required by paragraph (7) (f) ~~(b)~~.

551 4. Establish school district operated part-time or full-
 552 time kindergarten through grade 12 virtual instruction programs
 553 under paragraph (b) for students enrolled in the school
 554 district. A full-time program shall operate under its own Master
 555 School Identification Number.

556 5. Enter into an agreement with a virtual charter school
 557 authorized by the school district under s. 1002.33.

558

559 Contracts under subparagraph 1. or subparagraph 2. may include
 560 multidistrict contractual arrangements that may be executed by a

561 regional consortium for its member districts. A multidistrict
 562 contractual arrangement or an agreement under subparagraph 3. is
 563 not subject to s. 1001.42(4)(d) and does not require the
 564 participating school districts to be contiguous. These
 565 arrangements may be used to fulfill the requirements of
 566 paragraph (b).

567 (d) A virtual charter school may provide full-time virtual
 568 instruction for students in kindergarten through grade 12 if the
 569 virtual charter school has a charter approved pursuant to s.
 570 1002.33 authorizing full-time virtual instruction. A virtual
 571 charter school may:

- 572 1. Contract with the Florida Virtual School.
- 573 2. Contract with an approved provider under subsection
 574 (2).

575 3. Enter into an ~~a joint~~ agreement with ~~the~~ school
 576 districts to allow the participation of its students ~~district in~~
 577 ~~which it is located for the charter school's students to~~
 578 ~~participate in a the school district's~~ virtual instruction
 579 program. The agreement must indicate a process for reporting of
 580 student enrollment and the transfer of funds required by
 581 paragraph (7)(f).

582 (e) Each school district shall:

- 583 1. Provide to the department by October 1, 2011, and by
 584 each October 1 thereafter, a copy of each contract and the
 585 amounts paid per unweighted full-time equivalent student for
 586 services procured pursuant to subparagraphs (c)1. and 2.
- 587 2. Expend the difference in funds provided for a student
 588 participating in the school district virtual instruction program

589 pursuant to subsection (7) and the price paid for contracted
 590 services procured pursuant to subparagraphs (c)1. and 2. for the
 591 district's local instructional improvement system pursuant to s.
 592 1006.281 or other technological tools that are required to
 593 access electronic and digital instructional materials.

594 3. At the end of each fiscal year, but no later than
 595 September 1, report to the department an itemized list of the
 596 technological tools purchased with these funds.

597 (2) PROVIDER QUALIFICATIONS.—

598 (a) The department shall annually publish online ~~provide~~
 599 ~~school districts with~~ a list of providers approved to offer
 600 virtual instruction programs. To be approved by the department,
 601 a provider must document that it:

602 1. Is nonsectarian in its programs, admission policies,
 603 employment practices, and operations;

604 2. Complies with the antidiscrimination provisions of s.
 605 1000.05;

606 3. Locates an administrative office or offices in this
 607 state, requires its administrative staff to be state residents,
 608 requires all instructional staff to be Florida-certified
 609 teachers under chapter 1012, and conducts background screenings
 610 for all employees or contracted personnel, as required by s.
 611 1012.32, using state and national criminal history records;

612 4. Possesses prior, successful experience offering online
 613 courses to elementary, middle, or high school students as
 614 demonstrated by quantified student learning gains in each
 615 subject area and grade level provided for consideration as an
 616 instructional program option;

617 5. Is accredited by a regional accrediting association as
 618 defined by State Board of Education rule; ~~the Southern~~
 619 ~~Association of Colleges and Schools Council on Accreditation and~~
 620 ~~School Improvement, the North Central Association Commission on~~
 621 ~~Accreditation and School Improvement, the Middle States~~
 622 ~~Association of Colleges and Schools Commission on Elementary~~
 623 ~~Schools and Commission on Secondary Schools, the New England~~
 624 ~~Association of Schools and Colleges, the Northwest Association~~
 625 ~~of Accredited Schools, the Western Association of Schools and~~
 626 ~~Colleges, or the Commission on International and Trans-Regional~~
 627 ~~Accreditation; and~~

628 6. Ensures instructional and curricular quality through a
 629 detailed curriculum and student performance accountability plan
 630 that addresses every subject and grade level it intends to
 631 provide through contract with the school district, including:

632 a. Courses and programs that meet the standards of the
 633 International Association for K-12 Online Learning and the
 634 Southern Regional Education Board.

635 b. Instructional content and services that align with, and
 636 measure student attainment of, student proficiency in the Next
 637 Generation Sunshine State Standards.

638 c. Mechanisms that determine and ensure that a student has
 639 satisfied requirements for grade level promotion and high school
 640 graduation with a standard diploma, as appropriate;

641 7. Publishes for the general public, in accordance with
 642 disclosure requirements adopted in rule by the State Board of
 643 Education, as part of its application as a provider and in all
 644 contracts negotiated pursuant to this section:

645 a. Information and data about the curriculum of each full-
 646 time and part-time program.

647 b. School policies and procedures.

648 c. Certification status and physical location of all
 649 administrative and instructional personnel.

650 d. Hours and times of availability of instructional
 651 personnel.

652 e. Student-teacher ratios.

653 f. Student completion and promotion rates.

654 g. Student, educator, and school performance
 655 accountability outcomes; and

656 ~~8.6.~~ If the provider is a community college, employs
 657 instructors who meet the certification requirements for
 658 instructional staff under chapter 1012.

659 (b) An approved provider shall retain its approved status
 660 for a period of 3 years after the date of the department's
 661 approval under paragraph (a) as long as the provider continues
 662 to comply with all requirements of this section. However, each
 663 provider approved by the department for the 2011-2012 school
 664 year must reapply for approval to provide a part-time program
 665 for students in grades 9 through 12.

666 (3) ~~SCHOOL-DISTRICT~~ VIRTUAL INSTRUCTION PROGRAM
 667 REQUIREMENTS.—Each ~~school-district~~ virtual instruction program
 668 under this section must:

669 (a) Align virtual course curriculum and course content to
 670 the Sunshine State Standards under s. 1003.41.

671 (b) Offer instruction that is designed to enable a student
 672 to gain proficiency in each virtually delivered course of study.

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673 (c) Provide each student enrolled in the program with all
 674 the necessary instructional materials.

675 (d) Provide, ~~when appropriate,~~ each full-time student
 676 enrolled in the program who qualifies for free or reduced-price
 677 school lunches under the National School Lunch Act, or who is on
 678 the direct certification list, and who does not have a computer
 679 or Internet access in his or her home with:

680 1. All equipment necessary for participants in the ~~school~~
 681 ~~district~~ virtual instruction program, including, but not limited
 682 to, a computer, computer monitor, and printer, if a printer is
 683 necessary to participate in the program; and

684 2. Access to or reimbursement for all Internet services
 685 necessary for online delivery of instruction.

686 (e) Not require tuition or student registration fees.

687 (4) CONTRACT REQUIREMENTS.—Each contract with an approved
 688 provider must at minimum:

689 (a) Set forth a detailed curriculum plan that illustrates
 690 how students will be provided services and be measured for
 691 attainment of ~~to attain~~ proficiency in the Next Generation
 692 Sunshine State Standards for each grade level and subject.

693 (b) Provide a method for determining that a student has
 694 satisfied the requirements for graduation in s. 1003.428, s.
 695 1003.429, or s. 1003.43 if the contract is for the provision of
 696 a full-time virtual instruction program to students in grades 9
 697 through 12.

698 (c) Specify a method for resolving conflicts among the
 699 parties.

700 (d) Specify authorized reasons for termination of the

701 contract.

702 (e) Require the approved provider to be responsible for
 703 all debts of the ~~school district~~ virtual instruction program if
 704 the contract is not renewed or is terminated.

705 (f) Require the approved provider to comply with all
 706 requirements of this section.

707 (5) STUDENT ELIGIBILITY.—A student may enroll in a virtual
 708 instruction program provided by the school district or by a
 709 virtual charter school operated in the district in which he or
 710 she resides if the student meets eligibility requirements for
 711 virtual instruction pursuant to s. 1002.455. ~~at least one of the~~
 712 ~~following conditions:~~

713 ~~(a) The student has spent the prior school year in~~
 714 ~~attendance at a public school in this state and was enrolled and~~
 715 ~~reported by a public school district for funding during the~~
 716 ~~preceding October and February for purposes of the Florida~~
 717 ~~Education Finance Program surveys.~~

718 ~~(b) The student is a dependent child of a member of the~~
 719 ~~United States Armed Forces who was transferred within the last~~
 720 ~~12 months to this state from another state or from a foreign~~
 721 ~~country pursuant to the parent's permanent change of station~~
 722 ~~orders.~~

723 ~~(c) The student was enrolled during the prior school year~~
 724 ~~in a school district virtual instruction program under this~~
 725 ~~section or a K-8 Virtual School Program under s. 1002.415.~~

726 ~~(d) The student has a sibling who is currently enrolled in~~
 727 ~~a school district virtual instruction program and that sibling~~
 728 ~~was enrolled in such program at the end of the prior school~~

729 ~~year.~~

730 (6) STUDENT PARTICIPATION REQUIREMENTS.—Each student
 731 enrolled in a ~~school-district~~ virtual instruction program or
 732 virtual charter school must:

733 (a) Comply with the compulsory attendance requirements of
 734 s. 1003.21. Student attendance must be verified by the school
 735 district.

736 (b) Take state assessment tests within the school district
 737 in which such student resides, which must provide the student
 738 with access to the district's testing facilities.

739 (7) VIRTUAL INSTRUCTION PROGRAM AND VIRTUAL CHARTER SCHOOL
 740 FUNDING.—

741 (a) Students enrolled in a virtual instruction program or
 742 a virtual charter school shall be funded through the Florida
 743 Education Finance Program as provided in the General
 744 Appropriations Act. However, such funds may not be provided for
 745 the purpose of fulfilling the class size requirements in ss.
 746 1003.03 and 1011.685.

747 (b) For purposes of a ~~school-district~~ virtual instruction
 748 program or a virtual charter school, "full-time equivalent
 749 student" has the same meaning as provided in s.
 750 1011.61(1)(c)1.b.(III) or (IV).

751 (c) For a student enrolled part-time in a grades 6 through
 752 12 program, a "full-time equivalent student" has the same
 753 meaning as provided in s. 1011.61(1)(c)1.b.(IV).

754 (d) A student may not be reported as more than 1.0 full-
 755 time equivalent student in any given school year.

756 (e) Beginning in the 2014-2015 fiscal year, when s.

757 | 1008.22(3)(g) is implemented, the reported full-time equivalent
 758 | students and associated funding of students enrolled in courses
 759 | requiring passage of an end-of-course assessment shall be
 760 | adjusted after the student completes the end-of-course
 761 | assessment.

762 | (f)~~(b)~~ The school district in which the student resides
 763 | shall report full-time equivalent students for a the school
 764 | ~~district~~ virtual instruction program or a virtual charter school
 765 | to the department in a manner prescribed by the department, and
 766 | funding shall be provided through the Florida Education Finance
 767 | Program. Funds received by the school district of residence for
 768 | a student in a virtual instruction program provided by another
 769 | school district under this section shall be transferred to the
 770 | school district providing the virtual instruction program.

771 | (g)~~(e)~~ A community college provider may not report
 772 | students who are served in a ~~school district~~ virtual instruction
 773 | program for funding under the Community College Program Fund.

774 | (8) ASSESSMENT AND ACCOUNTABILITY.—

775 | (a) Each approved provider contracted under this section
 776 | must:

777 | 1. Participate in the statewide assessment program under
 778 | s. 1008.22 and in the state's education performance
 779 | accountability system under s. 1008.31.

780 | 2. Receive a school grade under s. 1008.34 or a school
 781 | improvement rating under s. 1008.341, as applicable. The school
 782 | grade or school improvement rating received by each approved
 783 | provider shall be based upon the aggregated assessment scores of
 784 | all students served by the provider statewide. The department

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785 shall publish the school grade or school improvement rating
 786 received by each approved provider on its Internet website. The
 787 department shall develop an evaluation method for providers of
 788 part-time programs which includes the percentage of students
 789 making learning gains, the percentage of students successfully
 790 passing any required end-of-course assessment, the percentage of
 791 students taking Advanced Placement examinations, and the
 792 percentage of students scoring 3 or higher on an Advanced
 793 Placement examination.

794 (b) The performance of part-time students in grades 9
 795 through 12 shall not be included for purposes of school grades
 796 or school improvement ratings under subparagraph (a)2.; however,
 797 their performance shall be included for school grading or school
 798 improvement rating purposes by the nonvirtual school providing
 799 the student's primary instruction.

800 (c) An approved provider that receives a school grade of
 801 "D" or "F" under s. 1008.34 or a school improvement rating of
 802 "Declining" under s. 1008.341 must file a school improvement
 803 plan with the department for consultation to determine the
 804 causes for low performance and to develop a plan for correction
 805 and improvement.

806 (d) An approved provider's contract must be terminated if
 807 the provider receives a school grade of "D" or "F" under s.
 808 1008.34 or a school improvement rating of "Declining" under s.
 809 1008.341 for 2 years during any consecutive 4-year period or has
 810 violated any qualification requirement pursuant to subsection
 811 (2). A provider that has a contract terminated under this
 812 paragraph may not be an approved provider for a period of at

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813 | least 1 year after the date upon which the contract was
 814 | terminated and until the department determines that the provider
 815 | is in compliance with subsection (2) and has corrected each
 816 | cause of the provider's low performance.

817 | (9) EXCEPTIONS.—A provider of digital or online content or
 818 | curriculum that is used to supplement the instruction of
 819 | students who are not enrolled in a ~~school district~~ virtual
 820 | instruction program under this section is not required to meet
 821 | the requirements of this section.

822 | (10) MARKETING.—Each school district shall provide
 823 | information to parents and students about the parent's and
 824 | student's right to participate in a ~~school district~~ virtual
 825 | instruction program under this section and in courses offered by
 826 | the Florida Virtual School under s. 1002.37.

827 | (11) RULES.—The State Board of Education shall adopt rules
 828 | necessary to administer this section, including rules that
 829 | prescribe disclosure requirements under subsection (2) and
 830 | school district reporting requirements under subsection (7).

831 | Section 5. Section 1002.455, Florida Statutes, is created
 832 | to read:

833 | 1002.455 Student eligibility for K-12 virtual
 834 | instruction.—

835 | (1) A student may enroll in virtual instruction in the
 836 | school district in which he or she resides if the student meets
 837 | at least one of the following conditions:

838 | (a) The student spent the prior school year in attendance
 839 | at a public school in the state and was enrolled and reported by
 840 | the school district for funding during October and February for

841 | purposes of the Florida Education Finance Program surveys;
 842 | (b) The student is a dependent child of a member of the
 843 | United States Armed Forces who was transferred within the last
 844 | 12 months to this state from another state or from a foreign
 845 | country pursuant to a permanent change of station order;
 846 | (c) The student was enrolled during the prior school year
 847 | in a virtual instruction program under s. 1002.45 or a K-8
 848 | Virtual School Program under s. 1002.415;
 849 | (d) The student has a sibling who is currently enrolled in
 850 | a virtual instruction program and the sibling was enrolled in
 851 | that program at the end of the prior school year; or
 852 | (e) The student is eligible to enter kindergarten or first
 853 | grade.
 854 | (2) The virtual instruction options for which this
 855 | eligibility section applies include:
 856 | (a) School district operated part-time or full-time
 857 | kindergarten through grade 12 virtual instruction programs under
 858 | s. 1002.45(1)(b) for students enrolled in the school district.
 859 | (b) Full-time virtual charter school instruction
 860 | authorized under s. 1002.33.
 861 | (c) Courses delivered in the traditional school setting by
 862 | personnel providing direct instruction through a virtual
 863 | environment or through a blended virtual and physical environment
 864 | pursuant to s. 1003.498 and as authorized pursuant to s.
 865 | 1002.321(4)(e).
 866 | (d) Virtual courses offered in the course code directory
 867 | to students within the school district or to students in other
 868 | school districts throughout the state pursuant to s. 1003.498.

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869 Section 6. Paragraph (c) is added to subsection (2) of
 870 section 1003.428, Florida Statutes, to read:

871 1003.428 General requirements for high school graduation;
 872 revised.—

873 (2) The 24 credits may be earned through applied,
 874 integrated, and combined courses approved by the Department of
 875 Education. The 24 credits shall be distributed as follows:

876 (c) Beginning with students entering grade 9 in the 2011-
 877 2012 school year, at least one course within the 24 credits
 878 required in this subsection must be completed through online
 879 learning. However, an online course taken during grades 6
 880 through 8 fulfills this requirement. This requirement shall be
 881 met through an online course offered by the Florida Virtual
 882 School, an online course offered by the high school, or an
 883 online dual enrollment course offered pursuant to a district
 884 interinstitutional articulation agreement pursuant to s.
 885 1007.235. A student who is enrolled in a full-time or part-time
 886 virtual instruction program under s. 1002.45 meets this
 887 requirement.

888 Section 7. Section 1003.498, Florida Statutes, is created
 889 to read:

890 1003.498 School district virtual course offerings.—

891 (1) School districts may deliver courses in the
 892 traditional school setting by personnel certified pursuant to s.
 893 1012.55 who provide direct instruction through a virtual
 894 environment or through a blended virtual and physical
 895 environment.

896 (2) School districts may offer virtual courses for
 897 students enrolled in the school district. These courses must be
 898 identified in the course code directory. Students who meet the
 899 eligibility requirements of s. 1002.455 may participate in these
 900 virtual course offerings.

901 (a) Any eligible student who is enrolled in a school
 902 district may register and enroll in an online course offered by
 903 his or her school district.

904 (b) Any eligible student who is enrolled in a school
 905 district may register and enroll in an online course offered by
 906 any other school district in the state, except as limited by the
 907 following:

908 1. A student may not enroll in a course offered through a
 909 virtual instruction program provided pursuant to s. 1002.45.

910 2. A student may not enroll in a virtual course offered by
 911 another school district if:

912 a. The course is offered online by the school district in
 913 which the student resides; or

914 b. The course is offered in the school in which the
 915 student is enrolled. However, a student may enroll in an online
 916 course offered by another school district if the school in which
 917 the student is enrolled offers the course but the student is
 918 unable to schedule the course in his or her school.

919 3. The school district in which the student completes the
 920 course shall report the student's completion of that course for
 921 funding pursuant to s. 1011.61(1)(c)b.(VI) and the home school
 922 district shall not report the student for funding for that
 923 course.

924
 925 For purposes of this paragraph, the combined total of all school
 926 district reported FTE may not be reported as more than 1.0 full-
 927 time equivalent student in any given school year. The Department
 928 of Education shall establish procedures to enable interdistrict
 929 coordination for the delivery and funding of this online option.

930 Section 8. Paragraph (g) of subsection (3) of section
 931 1008.22, Florida Statutes, is amended to read:

932 1008.22 Student assessment program for public schools.—

933 (3) STATEWIDE ASSESSMENT PROGRAM.—The commissioner shall
 934 design and implement a statewide program of educational
 935 assessment that provides information for the improvement of the
 936 operation and management of the public schools, including
 937 schools operating for the purpose of providing educational
 938 services to youth in Department of Juvenile Justice programs.
 939 The commissioner may enter into contracts for the continued
 940 administration of the assessment, testing, and evaluation
 941 programs authorized and funded by the Legislature. Contracts may
 942 be initiated in 1 fiscal year and continue into the next and may
 943 be paid from the appropriations of either or both fiscal years.
 944 The commissioner is authorized to negotiate for the sale or
 945 lease of tests, scoring protocols, test scoring services, and
 946 related materials developed pursuant to law. Pursuant to the
 947 statewide assessment program, the commissioner shall:

948 (g) Beginning with the 2014-2015 school year, all
 949 statewide end-of-course assessments shall be administered
 950 online. ~~Study the cost and student achievement impact of~~
 951 ~~secondary end-of-course assessments, including web-based and~~

952 ~~performance formats, and report to the Legislature prior to~~
 953 ~~implementation.~~

954 Section 9. Paragraph (c) of subsection (1) of section
 955 1011.61, Florida Statutes, is amended to read:

956 1011.61 Definitions.—Notwithstanding the provisions of s.
 957 1000.21, the following terms are defined as follows for the
 958 purposes of the Florida Education Finance Program:

959 (1) A "full-time equivalent student" in each program of
 960 the district is defined in terms of full-time students and part-
 961 time students as follows:

962 (c)1. A "full-time equivalent student" is:

963 a. A full-time student in any one of the programs listed
 964 in s. 1011.62(1)(c); or

965 b. A combination of full-time or part-time students in any
 966 one of the programs listed in s. 1011.62(1)(c) which is the
 967 equivalent of one full-time student based on the following
 968 calculations:

969 (I) A full-time student, except a postsecondary or adult
 970 student or a senior high school student enrolled in adult
 971 education when such courses are required for high school
 972 graduation, in a combination of programs listed in s.
 973 1011.62(1)(c) shall be a fraction of a full-time equivalent
 974 membership in each special program equal to the number of net
 975 hours per school year for which he or she is a member, divided
 976 by the appropriate number of hours set forth in subparagraph
 977 (a)1. or subparagraph (a)2. The difference between that fraction
 978 or sum of fractions and the maximum value as set forth in
 979 subsection (4) for each full-time student is presumed to be the

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980 balance of the student's time not spent in such special
 981 education programs and shall be recorded as time in the
 982 appropriate basic program.

983 (II) A prekindergarten handicapped student shall meet the
 984 requirements specified for kindergarten students.

985 (III) A full-time equivalent student for students in
 986 kindergarten through grade 5 in a ~~school district~~ virtual
 987 instruction program under s. 1002.45 or a virtual charter school
 988 under s. 1002.33 shall consist of a student who has successfully
 989 completed a basic program listed in s. 1011.62(1)(c)1.a. or b.,
 990 and who is promoted to a higher grade level.

991 (IV) A full-time equivalent student for students in grades
 992 6 through 12 in a ~~school district~~ virtual instruction program
 993 under s. 1002.45(1)(b)1., ~~and 2.,~~ or 3. or a virtual charter
 994 school under s. 1002.33 shall consist of six full credit
 995 completions in programs listed in s. 1011.62(1)(c)1.b. or c. and
 996 3. Credit completions ~~may~~ can be a combination of full-credit
 997 courses or half-credit courses ~~either full credits or half~~
 998 ~~credits.~~ Beginning in the 2014-2015 fiscal year, when s.
 999 1008.22(3)(g) is implemented, the reported full-time equivalent
 1000 students and associated funding of students enrolled in courses
 1001 requiring passage of an end-of-course assessment shall be
 1002 adjusted after the student completes the end-of-course
 1003 assessment.

1004 (V) A Florida Virtual School full-time equivalent student
 1005 shall consist of six full credit completions or the prescribed
 1006 level of content that counts toward promotion to the next grade
 1007 in the programs listed in s. 1011.62(1)(c)1.a. and b. for

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1008 kindergarten ~~grades 6~~ through grade 8 and the programs listed in
 1009 s. 1011.62(1)(c)1.c. for grades 9 through 12. Credit completions
 1010 may ~~can~~ be a combination of full-credit courses or half-credit
 1011 courses either full credits or half credits. Beginning in the
 1012 2014-2015 fiscal year, when s. 1008.22(3)(g) is implemented, the
 1013 reported full-time equivalent students and associated funding of
 1014 students enrolled in courses requiring passage of an end-of-
 1015 course assessment shall be adjusted after the student completes
 1016 the end-of-course assessment.

1017 (VI) Each successfully completed full-credit course earned
 1018 through an online course delivered by a district other than the
 1019 one in which the student resides shall be calculated as 1/6 FTE.

1020 (VII)~~(VI)~~ Each successfully completed credit earned under
 1021 the alternative high school course credit requirements
 1022 authorized in s. 1002.375, which is not reported as a portion of
 1023 the 900 net hours of instruction pursuant to subparagraph
 1024 (1)(a)1., shall be calculated as 1/6 FTE.

1025 2. A student in membership in a program scheduled for more
 1026 or less than 180 school days or the equivalent on an hourly
 1027 basis as specified by rules of the State Board of Education is a
 1028 fraction of a full-time equivalent membership equal to the
 1029 number of instructional hours in membership divided by the
 1030 appropriate number of hours set forth in subparagraph (a)1.;
 1031 however, for the purposes of this subparagraph, membership in
 1032 programs scheduled for more than 180 days is limited to students
 1033 enrolled in juvenile justice education programs and the Florida
 1034 Virtual School.

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1036 The department shall determine and implement an equitable method
 1037 of equivalent funding for experimental schools and for schools
 1038 operating under emergency conditions, which schools have been
 1039 approved by the department to operate for less than the minimum
 1040 school day.

1041 Section 10. Section 1012.57, Florida Statutes, is amended
 1042 to read:

1043 1012.57 Certification of adjunct educators.—

1044 (1) Notwithstanding the provisions of ss. 1012.32,
 1045 1012.55, and 1012.56, or any other provision of law or rule to
 1046 the contrary, district school boards shall adopt rules to allow
 1047 for the issuance of an adjunct teaching certificate to any
 1048 applicant who fulfills the requirements of s. 1012.56(2)(a)-(f)
 1049 and (10) and who has expertise in the subject area to be taught.
 1050 An applicant shall be considered to have expertise in the
 1051 subject area to be taught if the applicant demonstrates
 1052 sufficient subject area mastery through passage of a subject
 1053 area test. The adjunct teaching certificate shall be used for
 1054 part-time teaching positions.

1055 (2) The Legislature intends that this section ~~intent of~~
 1056 ~~this provision is to~~ allow school districts to tap the wealth of
 1057 talent and expertise represented in Florida's citizens who may
 1058 wish to teach part-time in a Florida public school by permitting
 1059 school districts to issue adjunct certificates to qualified
 1060 applicants.

1061 (3) Adjunct certificateholders should be used as a
 1062 strategy to enhance the diversity of course offerings offered to
 1063 all students. School districts may use the expertise of

1064 individuals in the state who wish to provide online instruction
 1065 to students by issuing adjunct certificates to qualified
 1066 applicants ~~reduce the teacher shortage; thus, adjunct~~
 1067 ~~certificateholders should supplement a school's instructional~~
 1068 ~~staff, not supplant it. Each school principal shall assign an~~
 1069 ~~experienced peer mentor to assist the adjunct teaching~~
 1070 ~~certificateholder during the certificateholder's first year of~~
 1071 ~~teaching, and an adjunct certificateholder may participate in a~~
 1072 ~~district's new teacher training program. District school boards~~
 1073 ~~shall provide the adjunct teaching certificateholder an~~
 1074 ~~orientation in classroom management prior to assigning the~~
 1075 ~~certificateholder to a school.~~

1076 (4) Each adjunct teaching certificate is valid through the
 1077 term of the annual contract between the educator and the school
 1078 district. Additional annual certifications and annual contracts
 1079 may be awarded by the district at the district's discretion but
 1080 only for 5 school years and is renewable if the applicant is
 1081 rated effective or highly effective under s. 1012.34 ~~has~~
 1082 ~~received satisfactory performance evaluations~~ during each year
 1083 of teaching under adjunct teaching certification.

1084 (5)~~(2)~~ Individuals who are certified and employed under
 1085 this section shall have the same rights and protection of laws
 1086 as teachers certified under s. 1012.56.

1087 Section 11. Subsection (1) of section 1000.04, Florida
 1088 Statutes, is amended to read:

1089 1000.04 Components for the delivery of public education
 1090 within the Florida K-20 education system.—Florida's K-20
 1091 education system provides for the delivery of public education

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1092 through publicly supported and controlled K-12 schools,
 1093 community colleges, state universities and other postsecondary
 1094 educational institutions, other educational institutions, and
 1095 other educational services as provided or authorized by the
 1096 Constitution and laws of the state.

1097 (1) PUBLIC K-12 SCHOOLS.—The public K-12 schools include
 1098 charter schools and consist of kindergarten classes; elementary,
 1099 middle, and high school grades and special classes; ~~school~~
 1100 ~~district~~ virtual instruction programs; workforce education;
 1101 career centers; adult, part-time, and evening schools, courses,
 1102 or classes, as authorized by law to be operated under the
 1103 control of district school boards; and lab schools operated
 1104 under the control of state universities.

1105 Section 12. Paragraph (a) of subsection (6) of section
 1106 1002.20, Florida Statutes, is amended to read:

1107 1002.20 K-12 student and parent rights.—Parents of public
 1108 school students must receive accurate and timely information
 1109 regarding their child's academic progress and must be informed
 1110 of ways they can help their child to succeed in school. K-12
 1111 students and their parents are afforded numerous statutory
 1112 rights including, but not limited to, the following:

1113 (6) EDUCATIONAL CHOICE.—

1114 (a) Public school choices.—Parents of public school
 1115 students may seek whatever public school choice options that are
 1116 applicable to their students and are available to students in
 1117 their school districts. These options may include controlled
 1118 open enrollment, single-gender programs, lab schools, ~~school~~
 1119 ~~district~~ virtual instruction programs, charter schools, charter

1120 technical career centers, magnet schools, alternative schools,
 1121 special programs, advanced placement, dual enrollment,
 1122 International Baccalaureate, International General Certificate
 1123 of Secondary Education (pre-AICE), Advanced International
 1124 Certificate of Education, early admissions, credit by
 1125 examination or demonstration of competency, the New World School
 1126 of the Arts, the Florida School for the Deaf and the Blind, and
 1127 the Florida Virtual School. These options may also include the
 1128 public school choice options of the Opportunity Scholarship
 1129 Program and the McKay Scholarships for Students with
 1130 Disabilities Program.

1131 Section 13. Paragraph (b) of subsection (3) of section
 1132 1003.03, Florida Statutes, is amended to read:

1133 1003.03 Maximum class size.—

1134 (3) IMPLEMENTATION OPTIONS.—District school boards must
 1135 consider, but are not limited to, implementing the following
 1136 items in order to meet the constitutional class size maximums
 1137 described in subsection (1):

1138 (b) Adopt policies to encourage students to take courses
 1139 from the Florida Virtual School and other ~~school-district~~
 1140 virtual instruction options under s. 1002.45 ~~programs~~.

1141 Section 14. By December 1, 2011, the Department of
 1142 Education shall submit a report to the Governor, the President
 1143 of the Senate, and the Speaker of the House of Representatives
 1144 which identifies and explains the best methods and strategies by
 1145 which the department can assist district school boards in
 1146 acquiring digital learning at the most reasonable prices
 1147 possible and provides a plan under which district school boards

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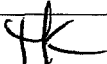
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1148 may voluntarily pool their bids for such purchases. The report
 1149 shall identify criteria that will enable district school boards
 1150 to differentiate between the level of service and pricing based
 1151 upon factors such as the level of student support, the frequency
 1152 of teacher-student communications, instructional accountability
 1153 standards, and academic integrity. The report shall also include
 1154 ways to increase student access to digital learning, including
 1155 identification and analysis of the best methods and strategies
 1156 for implementing part-time virtual education in kindergarten
 1157 through grade 5.

1158 Section 15. This act shall take effect July 1, 2011.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 7197 PCB KINS 11-04 Digital Learning
SPONSOR(S): Appropriations Committee, K-20 Innovation Subcommittee, Stargel
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: K-20 Innovation Subcommittee	14 Y, 0 N	Fudge	Sherry
1) Appropriations Committee	21 Y, 1 N, As CS	Heflin	Leznoff
2) Education Committee		Fudge 	Klebacha 

SUMMARY ANALYSIS

The bill increases the availability of online learning options by:

- Authorizing virtual charter schools to provide full-time online instruction to eligible kindergarten through grade 12 students in the district in which the student resides;
- Authorizing charter schools to offer blended learning courses to full-time students of the charter school. The online instruction must be provided from the physical location of the charter school;
- Authorizing Florida Virtual School (FLVS) to provide full-time instruction to students in kindergarten through grade 12, and part-time instruction to students in grades 4-5; part-time courses for 4th and 5th grade students are limited to public school students taking grade 6-8 courses for acceleration purposes;
- Requiring public school students receiving full-time and part-time instruction from the FLVS to take statewide assessments and FLVS to receive a school grade for student receiving full-time instruction;
- Expanding the options available for school district virtual instruction programs, including:
 - Requiring school districts to provide multiple opportunities and provider options for virtual instruction;
 - Authorizing full-time K-12, part-time 9-12 and full- or part-time instruction for dropout prevention, academic intervention, and Department of Juvenile Justice (DJJ) courses;
 - Authorizing school districts to operate/create their own virtual instruction programs; and
 - Modifying the eligibility criteria for participation in virtual instruction programs to allow kindergarten and 1st grade eligibility without the requirement for prior year enrollment in the public school system;
- Requiring the department to develop an evaluation method for providers of part-time virtual programs;
- Authorizing students to take an online course offered by a school district other than their district of residence, providing that the total FTE reported by both school districts does not exceed one;
- Requiring high school students entering grade 9 in the 2011-2012 school year to complete at least one online course within the 24 credit requirement for high school graduation;
- Clarifying that funding for all virtual instruction options (FLVS, district operated virtual instruction programs and virtual charter schools) shall be through the Florida Education Finance Program (FEFP) as provided in the General Appropriations Act, but cannot include funding for class size requirements.
- Requiring all statewide end-of-course assessments to be administered online by the 2014-2015 school year;
- Revising the requirements for issuance of adjunct teaching certificates by school districts to encourage the use of experienced individuals to provide online instruction in Florida; and
- Requiring the Department of Education to issue a report identifying and explaining the best methods and strategies for increasing student access to digital learning.

The bill has a fiscal impact on state government. See Fiscal Comments.

The bill is effective July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Virtual instruction programs provide an interactive learning environment created through technology in which students are separated from their teachers by time or space, or both.¹

Reports and Recommendations

Florida Department of Education: Study on the Advisability of Expanding Part-time Virtual Options For Florida Students in Grades 9-12

In January 2010, the Florida Department of Education (DOE) released its "Study on the Advisability of Expanding Part-time Virtual Options for Florida Students in Grades 9-12."² The report's primary recommendation was that part-time online educational opportunities only be expanded as data-driven accountability mechanisms are developed for the courses. Specifically, the report recommended that only part-time online courses with statewide end-of-course examinations or valid independent exams, such as Advanced Placement (AP) courses, be made available to students.³ However, comparable external tests or Florida Comprehensive Assessment Tests (FCAT), where applicable, should be permitted in place of statewide end-of-course exams.⁴

The report also recommended requiring part-time online courses to be approved by the DOE, and that the DOE in turn require that the provider demonstrate that the courses meet the standards created by the International Association for K-12 Online Learning (iNACOL). Advanced Placement courses should be required to successfully complete the College Board's AP audit and all core courses should receive NCAA-approval from the NCAA eligibility center.⁵

Digital Learning Now!

In 2010, former Governor Jeb Bush (1999-2007) and Bob Wise, former Governor of West Virginia (2001-2005) launched a national campaign, Digital Learning Now!, to advance policies that will create a high quality digital learning environment to better prepare students with the knowledge and skills to succeed in college and careers. The project is managed by the Foundation for Excellence in Education (Foundation) in partnership with the Alliance for Excellent Education. The Foundation is a 501(c)3 not-for-profit charitable organization whose mission is to ignite a movement of reform, state by state, to transform education for the 21st century. On December 1, 2010, the Foundation identified *10 Elements of High Quality Digital Learning*.⁶ The 10 elements include:

1. **Student Eligibility:** All students are digital learners.
2. **Student Access:** All students have access to high quality digital content and online courses.
3. **Personalized Learning:** All students can customize their education using digital content through an approved provider.
4. **Advancement:** Students progress based on demonstrated competency.

¹ Section 1002.45(1)(a)2., F.S.

² Florida Department of Education, *Study on the Advisability of Expanding Part-time Virtual Options For Florida Students in Grades 9-12*, on file with House Education Committee staff.

³ *Id.* at 31.

⁴ *Id.*

⁵ *Id.* at 32.

⁶ Foundation for Excellence in Education, *Digital Learning Now!*, available at:

<http://www.excelined.org/Docs/Digital%20Learning%20Now%20Report%20FINAL.pdf>, December 1, 2010 (last visited March 30, 2011).

5. **Content:** Digital content, instructional materials, and online blended learning courses are high quality.
6. **Instruction:** Digital instruction and teachers are high quality.
7. **Providers:** All students have access to multiple high quality providers.
8. **Assessment and Accountability:** Student learning is the metric for evaluating the quality of content and instruction.
9. **Funding:** Funding creates incentives for performance, options and innovation.
10. **Delivery:** Infrastructure supports digital learning.

The first two recommendations were to expand the eligibility and access for students to participate in virtual education to all students who are eligible for public schools.⁷

The report also recommended that virtual education be delivered on a personalized basis. Specifically, the report called for flexible scheduling and blended learning opportunities where students could spend part of the day learning in the classroom and part of the day learning online.⁸ Additionally, the report recommended that students should progress based on their demonstrated capacity. This would permit students to spend more time on subjects which they have not yet mastered and to move on from those subjects which they have mastered.⁹

Digital content, instructional materials, and online and blended learning courses should be aligned with applicable state standards. Accordingly, courses should be evaluated based on what students are expected to learn. Also, digital content should not be evaluated based on a higher standard than that applied to printed content, and that the textbook review process not be applied to digital content due to the potential to update digital content in real time.¹⁰

Online education instructors should be permitted to be certified through alternative routes which are most suitable for their particular educational role and are driven by performance.¹¹

The report also recommended that students should have access to multiple high quality providers. To facilitate this access, the approval process should be open, transparent, and expeditious; students should be able to select from all approved public, private, and non-profit providers; the state should treat all providers equally; and the state should provide information concerning digital learning to students.¹²

Moreover, the quality of the content and instruction provided by virtual education courses should be measured by student performance on digital assessments.¹³ Digital assessments were recommended because of the distinct advantages they offer, including unique evaluation models (such as simulations and constructed responses), faster results, instant feedback for students, and personalized analytics for teachers.¹⁴ Student performance was recommended as the basis for quality measurement because of the advantages of outcome-based accountability frameworks.¹⁵

The final two recommendations dealt with the funding and infrastructure for digital education.¹⁶

⁷ *Id.* at 7. The report called for the removal of certain barriers to eligibility and access to virtual education, including eligibility criteria such as public school attendance and class size limitations. *Id.* at 7-8.

⁸ *Id.* at 8.

⁹ *Id.* at 9.

¹⁰ *Id.*

¹¹ *Id.* at 10.

¹² *Id.* at 10-11.

¹³ *Id.* at 11.

¹⁴ *Id.* at 12.

¹⁵ *Id.*

¹⁶ *Id.* at 12-13.

Florida's Public K-12 Virtual Education Options

Florida Virtual School

The Florida Virtual School (FLVS) is a public online school providing students with several virtual education options.¹⁷ FLVS offers more than 100 courses in core subjects, world languages, electives, honors, and Advanced Placement.¹⁸

FLVS offers individual course enrollments to all Florida students in grades 6-12, including public school, private school, and home education students.¹⁹ In addition, the FLVS has partnered with Connections Academy to provide a full-time virtual education program to students in grades K-12.²⁰ Florida Virtual School Full Time (FLVS FT) is open to any public school student in grades K-12 through a school district virtual instruction program²¹ if the student meets certain eligibility criteria and the student's resident school district contracts with FLVS for the provision of a virtual instruction program. There are separate statutory requirements relating to student eligibility, assessment and accountability, and funding for each of these options.²²

FLVS is governed by a board of trustees appointed by the governor,²³ and its performance is monitored by the Commissioner of Education and reported to the State Board of Education and Legislature.²⁴ FLVS is fully accredited by the Southern Association of Colleges and Schools and AdvancEd.²⁵

School District Virtual Instruction Program

A school district virtual instruction program is a program of instruction provided in an interactive learning environment created through technology in which students are separated from their teachers by time or space, or both.²⁶ The purpose of the program is to make instruction available to students using online and distance learning technology in the nontraditional classroom.²⁷ In 2008, the Legislature required all school districts to provide a virtual instruction program beginning with the 2009-2010 academic year.²⁸ In 2009, the Legislature significantly revised the program requirements.²⁹

Each district must offer:

- A full-time virtual instruction program for students in kindergarten through grade 12,³⁰ and
- A full-time or part-time virtual instruction program for students in grades 9-12 enrolled in dropout prevention and academic intervention programs, Department of Juvenile Justice programs, core-

¹⁷ See Florida Virtual School, *Grades K-12 Options with FLVS*, <http://www.flvs.net/parents/Pages/K-12Options.aspx> (last visited May 26, 2010).

¹⁸ Florida Virtual School, *Quick Facts*, <http://www.flvs.net/areas/aboutus/Pages/QuickFactsaboutFLVS.aspx> (last visited May 26, 2010).

¹⁹ Florida Virtual School, *supra* note 17.

²⁰ Florida Virtual School Full Time, *Florida Virtual School Full Time*, <http://www.flvsft.com/> (last visited May 26, 2010).

²¹ See s. 1002.45, F.S.

²² Individual course enrollments and the FLVS FT program for non-public school students operate under s. 1002.37, F.S., relating to the Florida Virtual School. The FLVS FT program for public school students operates under s. 1002.45, F.S., relating to school district virtual instruction programs.

²³ Section 1002.37(2), F.S.

²⁴ Section 1002.37(1)(a), F.S.

²⁵ Florida Virtual School, *Accreditation*, <http://www.flvs.net/areas/aboutus/Pages/accreditation.aspx> (last visited May 26, 2010). In 2009, AdvancEd acquired the Commission on International and Trans-Regional Accreditation. See <http://www.citaschools.org/> and <http://www.advanc-ed.org/> (last visited May 26, 2010).

²⁶ Section 1002.45(1)(a), F.S.

²⁷ Section 1002.45(1)(b), F.S.

²⁸ Section 4, ch. 2008-147, L.O.F.

²⁹ Section 11, ch. 2009-59, L.O.F.

³⁰ Section 1002.45(1)(b)1., F.S.

curricula courses to meet class size requirements, or community colleges offering a school district virtual instruction program.³¹

Students are eligible to participate in the virtual instruction program if the student was:

- Enrolled in a public school and reported for funding in the FEFP in the prior school year;
- A dependent child of a member of the armed forces whose parent was transferred in the last 12 months;
- Enrolled in a school district operated virtual instruction program or K-8 virtual school program in the prior school year; or
- A sibling of a student currently enrolled a virtual school program;

To provide its students with the opportunity to participate in a virtual instruction program, a school district may choose one or more of the following options:

- Contract with the Florida Virtual School (FLVS) or establish a franchise of the FLVS;³²
- Contract with a provider approved by the Department of Education (DOE);³³
- Contract with a community college;³⁴ or
- Enter into an agreement with another school district to allow its students to participate in a virtual instruction program provided by the other school district.³⁵

Contracts with the FLVS or other providers may include multidistrict contractual arrangements executed by a regional consortium.³⁶ Additionally, a charter school may enter into an agreement with a district for the charter school's students to participate in the district's virtual instruction program.³⁷

Each contract between a school district and a provider must include the following:

- A detailed curriculum plan;
- A method for determining that a student has satisfied the requirements for graduation, if the contract is for a full-time virtual instruction program in grades 9-12;
- A method for resolving conflicts among parties;
- Authorized reasons for termination of the contract;
- A requirement that the approved provider be responsible for all debts of the program if the contract is terminated or not renewed; and
- A requirement that the approved provider comply with all statutory requirements relating to the program.³⁸

Each provider contracted to provide a school district virtual instruction program must participate in the statewide assessment program and the state's education performance accountability system.³⁹ Each provider receives a school grade or school improvement rating, which is based upon the aggregated assessment scores of all students served by the provider statewide.⁴⁰ School grades or school improvement ratings are published on DOE's website.⁴¹

If a provider receives a school grade of "D" or "F" or a school improvement rating of "Declining," the provider must file a school improvement plan for correcting low performance with the DOE. The school improvement plan must identify the causes of the low performance and propose a plan for

³¹ Section 1002.45(1)(b)2., F.S.

³² Section 1002.45(1)(c)1., F.S.

³³ Section 1002.45(1)(c)2., F.S.

³⁴ Section 9, ch. 2010-154, L.O.F.; s. 1002.45(1)(a) and (1)(c)2., F.S.

³⁵ Section 1002.45(1)(c)3., F.S.

³⁶ Section 1002.45(1)(c), F.S. Multidistrict consortia include Panhandle Area Educational Consortium (PAEC), Heartland Educational Consortium (HEC), and Northeast Florida Educational Consortium (NEFEC). *See* s. 1001.451, F.S.

³⁷ Section 1002.45(1)(d), F.S.

³⁸ Section 1002.45(4), F.S.

³⁹ Section 1002.45(8)(a)1., F.S.

⁴⁰ The performance of part-time 9-12 students is not included in the provider's school grade or school improvement rating. Performance of such students is included in the nonvirtual school that provides the student's primary instruction. Section 1002.45(8)(b), F.S.

⁴¹ Section 1002.45(8)(a)2., F.S.

improvement. If a provider receives a school grade of "D" or "F" for any two years during a four-year period, the provider's contract must be terminated and the provider cannot be approved for at least one year.⁴²

Charter Schools

Charter schools are nonsectarian, public schools that operate under a performance contract with a sponsor. This performance contract is known as a "charter."⁴³ The charter exempts the school from many regulations applicable to traditional public schools in order to encourage the use of innovative learning methods.⁴⁴ One of the guiding principles of charter schools is to meet high standards of student achievement and increase parental choice and student learning opportunities.⁴⁵

Charter schools are funded in the same manner as traditional public schools and may not charge tuition.⁴⁶ Like traditional public schools, a charter school's students must take the statewide assessments and charter schools receive an annual school grade.⁴⁷ Teachers employed by or under contract with a charter school must be certified as those in traditional public schools.⁴⁸

High School Graduation Requirements

To graduate, a student must earn credits in required high school courses and achieve the required grade point average, with the number of credits, required courses, and required grade point average varying based upon which graduation option the student selects.⁴⁹ Students may also receive a standard high school diploma in Florida by successfully completing the International Baccalaureate (IB) or Advanced International Certificate of Education (AICE) program curricula.

In addition, to receive a standard high school diploma, each student is currently required to pass the grade 10 FCAT in Reading and Mathematics or attain concordant scores on either the SAT or ACT tests.⁵⁰

Statewide Assessment Program

The Commissioner of Education must design and implement a statewide program of educational assessment that provides information for the improvement of the operation and management of public schools.⁵¹ The statewide assessment program consists of the Florida Comprehensive Assessment Test (FCAT) and statewide, standardized end-of-course (EOC) assessments.⁵²

The FCAT consists of comprehensive grade-level assessments in reading, writing, mathematics, and science.⁵³ Statewide, standardized EOC assessments are course-specific assessments.⁵⁴ The FCAT and statewide, standardized EOC assessments must be criterion-referenced tests⁵⁵ and must be

⁴² Section 1002.45(8)(c) and (d), F.S.

⁴³ Section 1002.33(5)(a), (7) and (9)(a), F.S.

⁴⁴ Section 1002.33(2) and (16), F.S.

⁴⁵ Section 1002.33(2), F.S.

⁴⁶ Section 1002.33(9)(d) and (17), F.S.

⁴⁷ Section 1002.33(16)(a), F.S.

⁴⁸ Section 1002.33(12)(f), F.S.

⁴⁹ Sections 1003.428, 1003.429, and 1003.43, F.S.

⁵⁰ Sections 1003.428(4)(b), 1003.429(6)(a), 1003.43(5)(a), and 1008.22(3)(c)6. and (10), F.S.; Florida Department of Education, Office of Assessment and School Performance, *FCAT Graduation Requirements* (Nov. 2009), available at <http://fcats.fldoe.org/pdf/fcatpass.pdf> [hereinafter *FCAT Graduation Requirements*].

⁵¹ Section 1008.22(3), F.S.

⁵² Section 1008.22(3)(c)1. and 2., F.S.

⁵³ Section 1008.22(3)(c)1., F.S.

⁵⁴ Section 1008.22(3)(c)2.a., F.S.

⁵⁵ Section 1008.22(3)(c)4., F.S. A criterion-referenced test (CRT) is an assessment in which an individual's performance is compared to a specific learning objective or performance standard and not to the performance of other students. CRTs show how well students performed on specific goals or standards rather than just telling how their performance compares to a norm group of students. Florida

aligned to the core curricular content established in the *Sunshine State Standards*, which specify the knowledge and skills that K-12 public school students are expected to acquire.⁵⁶

In 2008, the Legislature required the State Board of Education to review the Sunshine State Standards and replace them with more specific, rigorous, and relevant Next Generation Sunshine State Standards.⁵⁷ In order to align the assessment program with the Next Generation Sunshine State Standards, the DOE is developing new statewide assessments, including the FCAT 2.0 and EOC Assessments.⁵⁸ In 2010, the Legislature significantly revised the statewide assessment program requirements, replacing several FCAT assessments with EOC assessments.⁵⁹

EOC assessments are subject-specific assessments that are administered at the end of a particular course. EOC assessments must be rigorous, statewide, standardized, and developed or approved by the DOE.⁶⁰ In 2010, the Legislature required the DOE to implement statewide, standardized EOC assessments in Algebra 1, Geometry, and Biology 1 at the high school level,⁶¹ and an EOC assessment in Civics Education at the middle school level.⁶² Contingent upon funding, the Legislature also required the commissioner to establish an implementation schedule for the development and administration of additional statewide, standardized EOC assessments in English/Language Arts II,⁶³ Algebra 2, Chemistry, Physics, Earth/Space Science, United States (US) History, and World History.⁶⁴ Currently, the DOE is developing an EOC in US History.⁶⁵

Beginning with the 2010-2011 school year, the Department began transitioning to Computer Based Testing for statewide assessments. By 2014-2015, end-of-course assessments will be provided online for Algebra 1, Geometry, Biology 1, US History, and Civics.⁶⁶

Effect of Proposed Changes

The bill incorporates several elements identified in the *10 Elements of High Quality Digital Learning*,⁶⁷ such as, requiring high school students to take an online course, authorizing blended learning courses, increasing access to high quality digital providers, establishing metrics for evaluating the quality of content and instruction, and requiring administration of assessments online.

Blended Learning Courses

The bill authorizes charter schools to offer blended learning courses to full-time students of the charter school who receive online instruction from the physical location of the charter school. The bill requires that blended learning courses be provided by part-time or full-time employees of the charter school or by contracted providers of the instructional service. The instructor must also be certified in the subject

Department of Education, *FCAT Handbook: A Resource for Educators*, at 5 (2005), available at <http://fcat.fldoe.org/handbk/complete.pdf> [hereinafter *FCAT Handbook*]. Before 2008, the FCAT consisted of CRTs in reading, writing, mathematics, and science and norm-referenced tests (NRTs) in reading and mathematics. *Id.* In 2008, the Legislature repealed provisions authorizing use of the NRT. Section 7, ch. 2008-142 and s. 18, ch. 2008-235, L.O.F.

⁵⁶ Section 1008.22(3)(c)1. and 2.a., F.S.

⁵⁷ Section 1, ch. 2008-235, L.O.F., codified at s. 1003.41, F.S.

⁵⁸ State Board of Education, *Action Item: Approval for High School Accountability Assessments and High School Graduation Requirements* (May 18, 2010), available at http://www.fldoe.org/board/meetings/2010_05_18/coveraccountability.pdf.

⁵⁹ Chapters 2010-22 and 2010-48, L.O.F.

⁶⁰ Section 1008.22(3)(c)2.a., F.S.

⁶¹ Section 8, ch. 2010-22, L.O.F.

⁶² Section 3, ch. 2010-48, L.O.F.

⁶³ Priority must be given to the development of EOC assessments in English/Language Arts II. The commissioner must evaluate the feasibility and effect of transitions from the grade 9 and grade 10 FCAT Reading and high school level FCAT Writing to an EOC assessment in English/Language Arts II and report the results of the evaluation to the President of the Senate and the Speaker of the House of Representatives no later than July 1, 2011. Section 1008.22(3)(c)2.c., F.S.

⁶⁴ Section 1008.22(3)(c)2.c., F.S.

⁶⁵ Rule 6A-1.09422(3)(e), F.A.C.

⁶⁶ Florida Department of Education/ARM, *Transition to Next Generation and Computer-Based Tests in Florida*, available at: <http://fcat.fldoe.org/fcat2/cbt.asp>, last updated February 2011 (last visited March 24, 2011).

⁶⁷ Foundation for Excellence in Education, *Digital Learning Now!*, available at: <http://www.excelined.org/Docs/Digital%20Learning%20Now%20Report%20FINAL.pdf>, December 1, 2010 (last visited March 30, 2011).

area of the course. Faculty members providing online instruction for blended courses may be in a remote location from the school. Blended learning courses are considered in the same manner as traditional courses for funding and accountability purposes.

Online Learning

The bill requires grade 9 students entering the 2011-2012 school year to take at least one online course before high school graduation. The requirement may be met by a course offered through the Florida Virtual School, through an online course offered by the high school, or through an online dual enrollment course offered pursuant to a district interinstitutional articulation agreement. This requirement can also be met by enrollment in a full-time or part-time virtual instruction program offered by the school district.

Virtual Charter Schools

Beginning with the 2011-2012 school year, the bill expands virtual instruction options by allowing a charter school to operate a virtual charter school to provide full-time online instruction to eligible kindergarten through grade 12 students in the district in which the student resides. The virtual charter school may contract with the Florida Virtual School or an approved provider.

The governing board of a virtual charter school:

- May be required to have 50 percent of the governing board reside in the school district in which the school is sponsored.
- Must hold at least three public meetings annually in the school district.
- Must have a quorum of the governing board physically present at each meeting.

Students are eligible to attend a virtual charter school in the district in which the student resides if the student was:

- Enrolled in a public school and reported for funding in the FEFP in the prior school year;
- A dependent child of a member of the armed forces whose parent was transferred in the last 12 months;
- Enrolled in a school district operated virtual instruction program or K-8 virtual school program in the prior school year;
- A sibling of a student currently enrolled a virtual instruction program; or
- Eligible to enter kindergarten or first grade.

The funding for a virtual charter school shall be through the FEFP, however, no funds will be provided for class size requirements.

The sponsor of a virtual charter school may withhold an administrative fee of up to 5 percent to cover the cost of services and for the school district's local instructional improvement system or other technological tools required to access electronic and digital instructional materials.

Florida Virtual School

The bill allows the expansion of the Florida Virtual School (FLVS) to provide full-time online instruction to students in kindergarten through grade 12, and part-time instruction to students in grades 4-5. However, part-time courses for 4th and 5th grade students are limited to public school students taking grade 6-8 courses for acceleration purposes. The FTE generated by the Florida Virtual School for fourth and fifth grade students must be part of the total FTE of 1.0 reported for the student for the fiscal year.

Elementary school principles are required to notify parents of students scoring level 4 or 5 on FCAT reading or math of the option for the student to take accelerated courses through the FLVS.

The bill requires public school students receiving full-time and part-time instruction from the FLVS to take statewide assessments – including FCAT and statewide end-of-course exams.

The bill requires the FLVS to receive a school grade for students receiving full-time instruction.

District Virtual Instruction Program

Beginning with the 2011-2012 school year, the bill expands the virtual instruction program by requiring each school district to provide multiple opportunities for part-time and full-time virtual instruction, including at least three virtual instruction program options. To increase utilization of virtual instruction, the bill requires school districts to directly notify parents of these options through an open enrollment period for full-time students of at least ninety days and not ending earlier than thirty days prior to the first day of the school year.

The bill expands the district virtual instruction program to include part-time virtual instruction in grades 9 through 12 for courses that are measured by an evaluation system developed by the Department of Education. The evaluations will include the percentage of students making learning gains, the percentage of students successfully passing any required end-of-course assessments, the percentage of students taking AP course exams, and the percentage of students scoring a three (3) or above on the AP course exam.

Currently, school districts may fulfill the requirement for virtual instruction through contracts with the Florida Virtual School, contracts with approved providers, or through an agreement with another school district. The bill clarifies that school districts may fulfill this requirement through agreements with more than one school district and through multidistrict contractual arrangements, as well as through developing a school district operated virtual instruction program.

The bill also expands the criteria which the department uses to approve providers. The provider must demonstrate student performance improvements for each subject area and grade level and provide a detailed curriculum and student performance accountability plan. The courses and programs offered by the provider must meet the standards of the International Association for K-12 Online Learning and the Southern Regional Education Board. The instructional content of courses must be aligned with, and measure student attainment of, student proficiency in the Next Generation Sunshine State Standards. The provider must also publish information about each full-time and part-time program, school policies and procedures, certification status and physical location of all administrative and instructional personnel, student teacher ratios, student completion and promotion rates, and student, educator, and school performance accountability outcomes. Currently approved providers must re-apply for approval to provide a part-time program for students in grades 9 through 12. A provider that has its contract terminated may not be an approved provider for a period of at least two years.

The bill also revises eligibility criteria for student participation in a school district operated virtual instruction program to include students entering kindergarten or first grade without the requirement for prior year enrollment and funding in a public school. The bill further clarifies that funding for students participating in a virtual instruction program shall be through the Florida Education Finance Program as provided in the General Appropriations Act, but cannot include funding for class size requirements.

Online Assessments

The bill requires all statewide end-of-course assessments to be administered online by the 2014-2015 school year.

Adjunct Teaching Certificate

The bill revises the authority of school districts to issue adjunct certificates for part-time teaching positions. School districts would be able to utilize the expertise of individuals in this state to provide online instruction to Florida students. An adjunct teaching certificate is valid through the term of the annual contract between the adjunct teacher and the school district and is renewable if the adjunct teacher is rated effective or highly effective pursuant to s. 1012.34, F.S.

Reports

The bill requires the Department of Education to identify and explain the best methods and strategies for assisting district school boards in acquiring digital learning and for implementing part-time virtual education for kindergarten through fifth grade. This explanation must be made in a report to the Governor, the Senate President, and the Speaker of the House of Representatives. The report must contain criteria to enable school districts to differentiate between the levels of service and pricing for digital learning. The criteria must include such factors as the level of student support, the frequency of teacher-student communications, instructional accountability standards, and academic integrity.

B. SECTION DIRECTORY:

Section 1: Creating section 1002.321, F.S., creating the Digital Learning Now Act to expand access to high-quality digital learning.

Section 2: Amending s. 1002.33, F.S., authorizing virtual charter schools and authorizing blended learning courses at charter schools.

Section 4: Amending s. 1002.45, F.S., revising requirements for school district operated virtual instruction programs and establishing virtual charter schools to expand options for virtual instruction.

Section 3: Amending section 1002.37, F.S., revising requirements for reporting of full-time equivalent students; authorizing the Florida Virtual School (FLVS) to provide full-time instruction to kindergarten through grade 12 students and part-time instruction to grades 4 through 12 students; limiting instruction to part-time students in grades 4 and 5 to public school students and only grade 6 through 8 courses; requiring parental notification of accelerated learning options for all students scoring level 4 or 5 on FCAT reading or math; requiring students of the FLVS to take statewide assessments; and requiring the FLVS to receive a school grade.

Section 5: Creating s. 1002.455, F.S., establishing eligibility criteria for participation in virtual instruction options.

Section 6: Amending s. 1003.428, F.S., revising high school graduation requirements to include at least one course completed through online learning.

Section 7: Creating s. 1003.498, F.S., establishing options for school district virtual course offerings.

Section 8: Amending s. 1008.22, F.S., requiring all statewide end-of-course assessments be administered online.

Section 9: Amending s. 1011.61, F.S., revising the requirements for reporting of full-time equivalent student membership for purposes of funding in the FEFP.

Section 10: Amending s. 1012.57, F.S., revising requirements for issuance of adjunct teaching certificates.

Section 11: Amending s. 1000.04, F.S., correcting a cross-reference.

Section 12: Amending s. 1002.20, F.S., correcting a cross-reference.

Section 13: Amending s. 1003.03, F.S., correcting a cross-reference.

Section 14: Requiring the Department of Education to submit a report on ways to expand digital learning statewide and strategies for implementing part-time virtual education in kindergarten through grade 5.

Section 15: Providing an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill expands options for students to participate in virtual instruction. The bill will increase enrollment for the Florida Virtual School as well as for school district operated virtual instruction programs. Additionally the bill authorizes virtual charter schools. All of the expanded enrollment options for virtual instruction will add enrollment to the Florida Education Finance Program (FEFP) for funding in the General Appropriations Act. A Public School Enrollment Estimating conference was held on April 12, 2011, and adopted estimates for full-time equivalent enrollment impacts for several provisions of proposed bill language. Although the estimating conference did not adopt estimates for all of the provisions of this bill, the following estimates apply:

FTE Enrollment Expansion Issue	FY 2011-2012	FY 2012-2013	FY 2013-2014
Authorization for students to cross districts to take online courses	FTE – no change in TOTAL FTE Funding - \$1.13 M cost to state if 1% of students in 90% districts take courses in another district	FTE – no change in TOTAL FTE Funding - \$1.13 M cost to state if 1% of students in 90% districts take courses in another district	FTE – no change in TOTAL FTE Funding - \$1.13 M cost to state if 1% of students in 90% districts take courses in another district
Florida Virtual School Expansion	FTE = 400 Funding = \$2.0M	FTE = 452 Funding = \$2.2M	FTE = 497 Funding = \$2.4M
Virtual Instruction Program Eligibility Expansion & Authorization for Virtual Charter schools	FTE = 600 Funding = \$3.1M	FTE = 678 Funding = \$3.5M	FTE = 746 Funding = \$3.9M
TOTAL FTE and ESTIMATED FUNDING IMPACT	FTE = 1,000 Funding = \$6.2M	FTE = 1,130 Funding = \$6.8M	FTE = 1,243 Funding = \$7.4M

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 28, 2011, the K-20 Innovation Subcommittee adopted one amendment and reported the Proposed Committee Bill favorably. The bill required that for the courses required for high school graduation, at least one course must contain online learning. The amendment revised this provision to require the course to be completed solely through online learning.

On April 15, 2011, the Appropriations Committee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment creates the Digital Learning Now Act to expand student access to high-quality digital learning.

The strike-all amendment revises the following provisions:

- Revises the number of virtual instruction options that school district must provide. (Reduced from 9 to 3 to accommodate smaller districts).
- Specifically authorizes school districts to operate/create their own virtual instruction programs.
- Modifies the eligibility criteria for participation in virtual instruction programs to allow kindergarten and 1st grade eligibility without the requirement for prior year enrollment in the public school system.
- Revises the date by which high school students entering grade 9 must complete at least one online course, from 2013-14 to 2011-2012.
- Revises the funding requirements for all virtual instruction options (FLVS, school district operated virtual instruction programs and virtual charter schools) to clarify that funding shall be through the Florida Education Finance Program as provided in the General Appropriations Act, but cannot include funding for class size requirements.

Additionally, the strike-all adds the following provisions:

- Authorizes virtual charter schools to provide full-time online instruction to kindergarten through grade 12 students in the district in which the student resides.
 - Virtual charter schools must contract with the Florida Virtual School, an approved provider, or enter into an agreement with the school district to allow the charter school's students to participate in the district's VIP.
 - The district may require that up to half of the virtual charter school's governing board reside in the district.
 - The board must hold three public meetings in the district per year.
 - A quorum of the governing board members must physically attend each meeting.
 - The sponsoring school district may withhold an administrative fee equal to 5% of the total funds generated by the charter school through the FEFP.

- Authorizes school districts to offer blended learning courses that combine traditional classroom instruction and virtual instruction taught by a teacher that is not physically in the classroom.
- Enables public school students to enroll in an online course offered by another district if:
 - the course is not offered by the student's district; or
 - the course is offered, but the student is unable to schedule the course.
- Authorizes Florida Virtual School to provide full-time online instruction to students in kindergarten through grade 12, and expands part-time instruction to students in grades 4-5 for public school students taking grade 6 through 8 courses.
 - Elementary school principles are required to notify parents of students scoring level 4 or 5 on FCAT reading or math of the option for the student to take accelerated courses through the FLVS.
- Requires public school students receiving full-time and part-time instruction from the Florida Virtual School to take statewide assessments – including FCAT and statewide end-of-course exams.
- Requires Florida Virtual School to receive a school grade for students receiving full-time instruction.

1 A bill to be entitled
 2 An act relating to high school athletic trainers; requiring the
 3 Florida High School Athletic Association, in collaboration with
 4 school districts, to conduct a study; providing an effective
 5 date.


6
 7 Be It Enacted by the Legislature of the State of Florida:
 8

9 Section 1. The Florida High School Athletic Association
 10 shall conduct a study to evaluate the need for athletic trainers
 11 in each high school in the state that participates in athletics.
 12 The association shall consult with school districts, medical
 13 professionals, and the Department of Health to consider the
 14 need, the cost, and the availability of hiring an athletic
 15 trainer for each high school that participates in athletics.
 16 The study shall include, at a minimum, data related to the
 17 number of schools that currently employ an athletic trainer, the
 18 sports supervised by an athletic trainer, and the injury rates
 19 for those sports supervised by an athletic trainer compared to
 20 the injury rates for the same sports not supervised by an
 21 athletic trainer. For purposes of this study, "high school"
 22 includes grades 6 through 12. The association shall submit its
 23 findings to the Governor, the President of the Senate and the
 24 Speaker of the House of Representatives by December 1, 2011.

25 Section 2. This act shall take effect July 1, 2011.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for CS/HB 831 High School Athletic Trainers
SPONSOR(S): Education Committee
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Education Committee		Valenstein, JBV	Klebacha 

SUMMARY ANALYSIS

The bill requires the Florida High School Athletic Association (FHSAA) to conduct a study to evaluate the need for athletic trainers in each high school in the state that participates in athletics. The FHSAA must consult with school districts, medical professionals, and the Department of Health to consider the need, the cost, and the availability of hiring an athletic trainer for each high school that participates in athletics. The study must include, at a minimum, data related to the number of schools that currently employ an athletic trainer, the sports supervised by an athletic trainer, and the injury rates for those sports supervised by an athletic trainer compared to the injury rates for the same sports not supervised by an athletic trainer. For purposes of the study, "high school" includes grades 6 through 12. The FHSAA shall submit its findings to the Legislature and the Governor, by December 1, 2011.

The Florida High School Athletic Association (FHSAA) is designated as the governing nonprofit organization of athletics in Florida public schools. The FHSAA is required to adopt bylaws to establish eligibility requirements for all students, prohibit recruiting students for athletic purposes, and require students participating in athletics to satisfactorily pass an annual medical evaluation. The bylaws established by the FHSAA are the rules that govern the high school athletic programs in the FHSAA member schools, and the students who participate in them. For the purposes of athletics in public schools, high school is defined to include grades 6 through 12.

School districts are authorized to establish and implement an athletic injuries prevention and treatment program. If established, the program should focus on the employment and availability of persons trained in the prevention and treatment of physical injuries that may occur during athletic activities. The program should reflect minimum standards and opportunities for progressive advancement and compensation in employment as a licensed athletic trainer. Individuals considered for progressive advancement and compensation may also hold a certificate as a substitute teacher, certified educator, or adjunct teacher.

Athletic trainers are licensed by the Department of Health to recognize, prevent, and treat an injury sustained during an athletic activity which affects the athlete's ability to participate or perform. An athletic activity includes the participation in an event that is conducted by an educational institution, a professional athletic organization, or an amateur athletic organization, involving exercises, sports, games, or recreation requiring any of the physical attributes of strength, agility, flexibility, range of motion, speed, and stamina. As of June 30, 2010, there were 1,347 active in-state licensed athletic trainers.

The bill does not appear to have a fiscal impact on the state or local governments.

The bill takes effect July 1, 2011.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida High School Athletic Association

The Florida High School Athletic Association (FHSAA) is designated as the governing nonprofit organization of athletics in Florida public schools. The FHSAA is required to adopt bylaws to establish eligibility requirements for all students, prohibit recruiting students for athletic purposes, and require students participating in athletics to satisfactorily pass an annual medical evaluation.¹ The bylaws established by the FHSAA are the rules that govern the high school athletic programs in the FHSAA member schools, and the students who participate in them. For the purposes of athletics in public schools, high school is defined to include grades 6 through 12.²

School Districts and Athletic Trainers

School districts are authorized to establish and implement an athletic injuries prevention and treatment program. If established, the program should focus on the employment and availability of persons trained in the prevention and treatment of physical injuries that may occur during athletic activities. The program should reflect minimum standards and opportunities for progressive advancement and compensation in employment as a licensed athletic trainer. Individuals considered for progressive advancement and compensation may also hold a certificate as a substitute teacher, certified educator, or adjunct teacher. Additionally, it is the goal of the Legislature to have school districts employ and have available a full-time athletic trainer in each high school in the state.

Athletic Trainers

Athletic Trainers are regulated by the Florida Department of Health, Division of Medical Quality Assurance, and the Board of Athletic Training.³ Athletic training is the recognition, prevention, and treatment of an injury sustained during an athletic activity which affects the athlete's ability to participate or perform.⁴ An athletic activity includes the participation in an event that is conducted by an educational institution, a professional athletic organization, or an amateur athletic organization, involving exercises, sports, games, or recreation requiring any of the physical attributes of strength, agility, flexibility, range of motion, speed, and stamina.⁵

In 1994, the Legislature began fully regulating and licensing the practice of athletic training to protect the public and ensure that athletes are assisted by individuals adequately trained to recognize, prevent, and treat physical injuries sustained during athletic activities.⁶

As of June 30, 2010, there were 1,347 active in-state licensed athletic trainers.⁷ Between July 1, 2009, and June 30, 2010, the department received 185 applications from individuals seeking initial licensure as an athletic trainer.⁸

¹ Section 1006.20(1) and (2), F.S.

² Section 1006.20(1), F.S.

³ The Board of Athletic Training is composed of nine members who are Governor appointed and confirmed by the Senate. Five of the members must be licensed athletic trainers, one must be a physician, and two are consumer-residents who are not affiliated with the industry or licensed health-care practice. Section 468.703, F.S.; Part XIII, ch. 468, F.S.

⁴ Section 468.701(3) and (5), F.S.

⁵ Section 468.701(2), F.S.

⁶ Ch. 94-119, L.O.F. and s. 468.70, F.S.

⁷ Florida Department of Health, Division of Medical Quality Assurance: *Annual Report July 1, 2009 to June 30, 2010*, 19, available at: <http://www.doh.state.fl.us/mqa/Publications/08-09mqa-ar.pdf> (last visited April 18, 2011).

⁸ *Id.* at 24.

Applicants seeking licensure as an athletic trainer must: complete the application form and remit the required fees;⁹ be at least 21 years of age; possess a baccalaureate degree from a college or university accredited by the United States Department of Education or the Commission on Recognition of Postsecondary Accreditation, or a program approved by the board; complete an approved athletic training curriculum from a college or university accredited by an accrediting agency recognized and approved by the United States Department of Education or the Commission on Recognition of Postsecondary Accreditation, or approved by the board; be certified in cardiovascular pulmonary resuscitation from the American Red Cross, the American Heart Association, or an equivalent certification entity as determined by the board; submit proof of taking a two-hour course on the prevention of medical errors; and submit a certified copy of the National Athletic Trainers Association Board of Certification certificate or a notarized copy of examination results.¹⁰

Each applicant for licensure is required to complete a continuing education course on HIV/AIDS as part of initial licensure and one hour for biannual licensure renewal.¹¹ Additionally, licensed athletic trainers are required to complete 24 hours of continuing education courses biannually. The courses must focus on the prevention of athletic injuries; the recognition, evaluation, and immediate care of athletic injuries; rehabilitation and reconditioning of athletic injuries; health care administration; or professional development and responsibility of athletic trainers.¹²

An athletic trainer is required to practice within a written protocol¹³ established with a supervising physician.¹⁴ The protocol must be reviewed by September 30 of each even year and the protocol must be available for inspection upon request.¹⁵

The Department of Health considers the following principles, methods, and procedures within the scope of a licensed athletic trainer's practice: injury prevention; injury recognition and evaluation; first aid; emergency care; injury management/treatment and disposition; rehabilitation through the use of safe and appropriate physical rehabilitation practices, including those techniques and procedures following injury and recovery that restore and maintain normal function status; conditioning; performance of tests and measurements to prevent, evaluate, and monitor acute and chronic injuries; selection of preventive and supportive devices, temporary splinting and bracing, protective equipment, strapping, and other immobilization devices and techniques to protect an injured structure, facilitate ambulation and restore normal functioning; organization and administration of facilities within the scope of the profession; and education and counseling to the public regarding the care and prevention of athletic injuries.¹⁶

In the course of treatment and rehabilitation of muscle skeletal injuries, a licensed athletic trainer may administer: therapeutic exercise; massage; mechanical devices; cryotherapy (e.g., ice, cold packs, cold water immersion, spray coolants); thermotherapy (e.g., topical analgesics, moist/dry hot packs, heating pads, paraffin bath); and other therapeutic agents with the properties of water (e.g., whirlpool),

⁹ The application fee is \$100 and the initial licensure fee for even years is \$125 and in odd years is \$75. Rule 64B33-3.001, F.A.C. The license for the profession of athletic training is renewed September 30 of each even year. Rule 64B-9.001, F.A.C.

¹⁰ Section 468.707, F.S.; Florida Department of Health, Division of Medical Quality Assurance, Athletic Training: Application & Licensure Requirements, *available at*: http://www.doh.state.fl.us/mqa/athtrain/at_lic_req.html (last visited April 18, 2011).

¹¹ Section 456.034(4), F.S. and rule 64B7-25.0012, F.A.C.

¹² Rule 64B33-2.003, F.A.C.

¹³ The written protocol must include: the athletic trainer's name, license number, and curriculum vitae; the supervising physician's name, license number, and curriculum vitae; method of contacting the supervising physician, specifically delineating the method to report new injuries as soon as practicable; the patient population to be treated (e.g., specific scholastic athletic programs, patients of a specific clinic, patients with specific physician referral); the method of assessment of a patient's status and treatment; delineation of the items considered within the scope of practice for the athletic trainer to include the use of modalities/equipment that may be initiated by the athletic trainer or require a physician's order; and identification of resources for emergency patient care (e.g., nearest hospital with emergency services, ambulance service). Rule 64B33-4.001(1), F.A.C.

¹⁴ The physician must be licensed under chapter 458 (allopathic physician), 459 (osteopathic physician), or 460 (chiropractic physician), F.S.; rule 64B33-4001(1), F.A.C.

¹⁵ Rule 64B33-4.001(2), F.A.C.

¹⁶ Rule 64B33-4.001(3), F.A.C.

electricity (e.g., electrical stimulation, diathermy¹⁷), light (e.g., infrared, ultraviolet), or sound (e.g., ultrasound); and topical prescription medications (e.g., steroid preparation for phonophoresis¹⁸) only at the direction of a physician.¹⁹

Effects of the Bill

The bill requires the Florida High School Athletic Association (FHSAA) to conduct a study to evaluate the need for athletic trainers in each high school in the state that participates in athletics. The FHSAA must consult with school districts, medical professionals, and the Department of Health to consider the need, the cost, and the availability of hiring an athletic trainer for each high school that participates in athletics. The study must include, at a minimum, data related to the number of schools that currently employ an athletic trainer, the sports supervised by an athletic trainer, and the injury rates for those sports supervised by an athletic trainer compared to the injury rates for the same sports not supervised by an athletic trainer. For purposes of the study, "high school" includes grades 6 through 12. The FHSAA shall submit its findings to the Legislature and the Governor, by December 1, 2011.

B. SECTION DIRECTORY:

Section 1. Requires the Florida High School Athletic Association, in collaboration with school districts, to conduct a study relating to athletic trainers.

Section 2. Provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill requires the Florida High School Athletic Association to expend staff time to conduct a study related to athletic trainers. The economic impact of the study is indeterminate, but insignificant. The study will be performed using existing resources.

D. FISCAL COMMENTS:

None.

¹⁷ Diathermy is a method of physical therapy that involves using high-frequency electric current, ultrasound, or microwaves to deliver heat to muscles and ligaments.

¹⁸ Phonophoresis has been used in an effort to enhance the absorption of topically applied analgesics and anti-inflammatory agents through the therapeutic application of ultrasound.

¹⁹ Rule 64B33-4.001(4), F.A.C.

II. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.